

نُورُ الْأَنوارِ فِي شَرْحِ الْمَنَارِ

**The Light of Lights  
on the  
Commentary of Al-Manaar  
Volume II**

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Nidaa-ul-Haqq Publications

# Noor-ul-Anwaar fee Sharh-il-Manaar

(The Light of Lights  
on the  
Commentary of Al-Manaar)

## Volume II

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

## القسم الثاني من التقسيم الأول

### Part Two, from Section One:

العام

*Al-'Aam (General)*

ثم لما فرغ المصنف رحمة الله عن بيان الخاص وأحكامه وأقسامه شرع في بيان العام فقال:

Now that the author رحمة الله has completed his explanation on *al-khaas*, its rulings and its categories, he now commences his explanation on *al-'aam* (general), so he says:

تعريفه

#### 1. Its Definition:

(وَمَا الْعَامُ: فَمَا يَتَنَاهُ أَفْرَادًا مُتَفَقَّةُ الْحَدُودُ عَلَى سَبِيلِ الشَّمْوَلِ)

"As for 'aam (general), then it (is such a thing that) includes (a number) of individuals all of which are the same in terms of their boundaries and limits<sup>1</sup>, by way of encompassing all of them."

<sup>1</sup> The meaning of what the author said is that, the different individuals are in agreement in terms of the truthfulness of the meaning which is pointed out to by the word. The meaning of them being the same or in agreement in terms of boundaries/limits is not that they are the same in terms of their beings or how they are, because that would mean that animals do not fall under 'aam, because the *maahiyat* (the how, or being, or essence) of each animal is different. Such a notion is incorrect. Rather, animals as a whole fall under 'aam, because though their beings or essences are different, they all fall under the broad meaning of the word "animal".

فكلمة: (ما) عبارة عن لفظ موضوع, لأن العموم لا يجري في المعاني, والعام من أقسام وجوده  
النظم وضعاً كالخاص

So the word "maa" refers to a word that is placed, because there is no 'umoom (generality) in the meanings (of words, i.e. the meanings are not described with "generality", neither in a literal sense nor in a metaphorical sense), and 'aam is from the categories of the types of the text in placement, like *khaas* (specific).

وبقوله: (تناول أفراداً) خرج الخاص, أما خاص العين فظاهر وأما خاص الجنس والنوع فإنه  
يتناول مفهوماً كلياً أو فرداً واحداً يحتمل الصدق على كثيرين وليس هو بموضوع للأفراد بنفسه  
وكذا خرج أسماء العدد لأنه يتناول الأجزاء دون الأفراد  
وكذا يخرج به المشترك لأنه يتناول معان لا أفراداً

By him saying, "It comprises of individuals," *khaas* has been excluded. *Khaas* is of three types:

1. *Khaas-ul-'Ayn* (*Khaas* of an individual).
2. *Khaas-ul-Jins* (*Khaas* of a species).
3. *Khaas-un-Naaw'* (*Khaas* of a type).

As for *khaas-ul-'ayn* (specifying a particular individual, like "Zaid"), then why it has been excluded (from being 'aam) is obvious. As for *khaas-ul-jins* (i.e. *insaan* or human being) and *khaas-un-naaw'* (i.e. man or woman), then it is because they comprise of one complete, absolute meaning, or one individual though being able to include many as well, but their subject-matter is not individuals (*afrAAD*).

Similarly, *asmaa-ul-'adad* (numerals, like three, four, etc.) have been excluded because they comprise or relate to parts (*ajzaa*), not individuals (*afrAAD*). [The difference between the two is that *ajzaa* refers to pieces of a whole, and which, if they are joined together, that whole is formed, but each individual part cannot be taken to refer to the whole. For example, if it is said, "Zaid's hand." Hand (*yad*) here is a *juz'* (part) of a whole. Zaid is the whole. Zaid is not his hand. The hand is a part (*juz'*) of Zaid.]

Similarly, *mushtarak* has been excluded because it comprises of and deals with meanings (i.e. having one or more meanings), not individuals.<sup>2</sup>

ثم قوله: (متفقة الحدود على سبيل الشمول) لبيان تحقیق ماهیة العام لا للإحتراز وقيل: (متفقة الحدود) إحتراز عن المشترك لأنه يتناول أفراداً مختلفة الحدود، و: على سبيل الشمول، إحتراز عن النكرة المنافية فإنها تتناول الأفراد على سبيل البديلة دون الشمول وإنما إكتفى المصنف رحمة الله بالتناول دون الإستغراق إتباعاً لفخر الإسلام فإنه لا يشترط عنده في العام الإستغراق لجميع الأفراد، فالجمع المعرف والمنكر كله عام، وعند صاحب "الوضيحة" يشترط في العام الإستغراق فيكون الجمع المنكر واسطة بين العام والخاص

Thereafter, the statement of the author: "Having agreement in terms of their limits/boundaries, by way of encompassing."

This is to clarify the essence of `aam and is not for the purpose of limiting.

It has also been said that the statement of the author: "Having agreement in terms of their limits/boundaries", is to separate it and exclude *mushtarak*, because *mushtarak* includes those individuals that are different in terms of their limits/boundaries. And the author saying: "by way of encompassing," is to exclude the negating *nakirah* (indefinite), because it includes individuals by way of substitute, not by way of encompassing.

The author sufficed with saying "including" rather than using the term "istighraaq", which gives the meaning of fully encompassing (literally, *istaghraqa - yastaghriqu - istighraaqan*, is to plunge something into water, and this term is used metaphorically to denote absolute an absolute encompassing), because he is following Fakhr-ul-Islaam (Imaam al-Bazdawi رحمة الله عليه), because according to Fakhr-ul-Islaam, *istighraaq* (full encompassing) of all the individuals is not a *shart* (condition) when it comes to `aam, because plural, be it definite or indefinite, all of it is `aam. However, according to the author of *at-Tawdheeh*, *istighraaq* of all individuals is a *shart* when it comes to `aam, and an indefinite plural is (according to him) in the middle between being `aam and being *khaas*.

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<sup>2</sup> The subject of *mushtarak* will be explained in detail later on in this Kitaab.

## حكمه قبل التخصيص:

( وإنما يوجب الحكم فيما يتناوله قطعاً )

بيان لحكمه بعد بيان معناه

## 2. Its Ruling Prior to *Takhsees*

The author says:

"It necessitates complete knowledge and understanding in that which it includes." (i.e. the word "hukm" here means `ilm and fahm (understanding). *Qat'an* is connected to the verb "yoojibu" (necessitates) and is a *tamyeez* (clarifier) for it. The meaning given by *qat'an* here is: "a meaning that is most `aam, i.e. the negation of any evidence-based possibility of something else.)

This is an explanation of the ruling of `aam after having explained its meaning.

فقوله: (يوجب الحكم) رد على من قال أنه مجمل لا خلاف أعداد الجمع فلا يكون موجباً  
أصلاً، بل يجب التوقف حتى يقوم الدليل على معين

وقوله: (فيما يتناوله) رد على من قال: لا يوجب الفرد إلا الواحد ولا الجمع إلا الثالث، والباقي  
موقوف على قيام الدليل

وقوله: (قطعاً) رد على الشافعي رحمه الله حيث ذهب إلى أن العام ظني لأنه ما من عام إلا وقد  
خص منه البعض، فيحتمل أن يكون مخصوصاً منه البعض وإن لم نقف عليه، فيوجب العمل لا  
العلم كخبر الواحد والقياس

ونقول: هذا إحتمال ناش بلا دليل وهو لا يعتبر. وإذا خص منه البعض كان إحتمالاً ناشئاً عن  
دليل فيكون معتبراً

فعندها: العام قطعي، فيكون مساوياً للخاص

So the statement of the author: "it necessitates knowledge," this is a reply to those who say that it is *mujmal* due to the different numbers of plural, thus in essence it cannot necessitate (anything), but rather, reserving judgement is necessary until some evidence has come about to make it *mu`ayyan* (specific).

His statement, "in that which it includes," is a response to those who say that *fard* (singular) does not necessitate except one, and plural does not necessitate except three, and to establish more than that, there is a need for proof.

His statement, "absolutely," is a response to Imaam ash-Shaafi`ee رحمة الله عليه because of him saying that `aam is *zhannee* (speculative), because there is no `aam except that part of it is *khaas*, so there is the possibility of it being *makhsus minhul ba`dh* (part of it is specific) even if we do not come across any evidence (for that), so it necessitates action, not knowledge, like a *khabeer-waahid* and *qiyaaas* (analogical reasoning).

We say: "This is a (claim of) possibility that has no proof and therefore is not considered. If part of it is *khaas*, then the *ihtimaal* (possibility) would be evidence-based and in that case it would be considered.

Thus, according to us, `aam is *qat`iyy* (absolute, not speculative), so it is equal to *khaas*.

(حتى يجوز نسخ الخاص به)

أي: بالعام، لأنه يشترط في الناسخ أن يكون مساوياً للمنسوخ أو خيراً منه

(كحديث العرنين نسخ بقوله عليه الصلاة والسلام: إستنذهوا من البول)

وعربنيون قبيلة ينسبون إلى عرينية تصغير عرنة التي هي واد بعرفات، وحديثهم ما روى أنس بن مالك رضي الله عنه: أن قوماً من عرينية أتوا المدينة فلم توافقهم، فاصرفت ألوانهم وانتفخت بطونهم، فأمرهم رسول الله صلى الله عليه وسلم أن يخرجوا إلى إبل الصدقة ويشربوا من ألبانها وأبواالها فصحوا، ثم ارتدوا فقتلوا الرعاعة، واستافقوا الإبل، فبعث رسول الله صلى الله عليه وسلم في إثرهم قوماً، فأخذوا فأمر بقطع أيديهم وأرجلهم، وسمّل أعينهم وتركهم في شدة الحر حتى ماتوا

فهذا الحديث خاص ببول الإبل يدل على طهارته وحله وبه تمسك محمد رحمه الله في أن بول ما يؤكل لحمه ظاهر، ويحل شربه للتداوي وغيره

وعندهما هو منسوخ بقوله عليه الصلاة والسلام: إسْتَنْزِهُوا مِنَ الْبُولِ، وهو عام لماكول اللحم وغيره، فقد نسخ الخاص بهذا العام

The author says:

"So much so that it is permissible to abrogate *khaas* through it."

Meaning, through 'aam, because one stipulation when it comes to abrogation is that the abrogator must be equal to or greater than the thing being abrogated.

The author says:

"Like the Hadeeth of the 'Uraniyyeen; it is *mansookh* (abrogated) by the statement of Rasoolullaah, صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ, "Keep away from urine."

The 'Uraniyyoon were a tribe from 'Uraynah, which is a valley near 'Arafaat. The Hadeeth concerning them has been narrated by Hadhrat Anas ibn Maalik, رضي الله عنه. He narrates that a group of people came to Madeenah, but it (its weather, conditions) did not agree with them, so their skin turned yellow and their stomachs became swollen. Rasoolullaah, صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ commanded them to go to the camels of the *sadaqah*, and to drink from their milk and their urine. They did so and they were cured. Thereafter, they became Murtadd, killed the shepherds and chased away the camels.

Rasoolullaah, صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ sent some (Sahaabah) after them. They were caught, and Rasoolullaah, صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ordered that their hands and feet be cut off, their eyes be burnt (with iron rods), and that they be left in the heat (of the desert) until they died.

This Hadeeth is *khaas* with regards to the urine of the camel, and points out to its *tahaarah* (purity) and its permissibility. Imaam Muhammad رحمه الله عليه used this as proof for his view that the urine of those animals whose meat is *halaal* is *taahir*, and that to drink it as cure is permissible, etc.

According to (Imaam Abu Haneefah رحمة الله عليه and Imaam Abu Yusuf رحمة الله عليه), it is *mansookh* (abrogated) with the Hadeeth of Rasoolullaah صلى الله عليه وسلم: "Keep away from urine." Because this Hadeeth is `aam, encompassing those animals that are permissible to eat and those that aren't, so that *khaas* has been abrogated by this `aam.

فبول ما يؤكل لحمه وغيره كله نجس حرام لا يحل شربه واستعماله للتداوى وغيره عند أبي حنيفة  
رحمه الله، ويحل عند أبي يوسف رحمه الله في التداوى للضرورة على ما عرف

وقصة هذا الحديث الناسخ ما روي أنه عليه الصلاة والسلام لما فرغ من دفن صحابي صالح  
أبتي بعذاب القبر جاء إلى امرأته فسألها عن أعماله فقالت: كان يرعى الغنم ولا يتزه من بوله،  
فحينئذ قال عليه الصلاة والسلام: إِسْتَنْهُوْا مِنَ الْبُولِ فَإِنَّ عَامَةَ عَذَابِ الْقَبْرِ مِنْهُ

فهو بحسب شأن النزول أيضاً خاص ببول ما يؤكل لحمه، كما كان المنسوخ خاصاً به، ولكن  
العبرة بعموم اللفظ

والذي يدل على كون حديث العرنين منسوحاً بهذا الحديث أن المثلة التي تضمنها حديث  
العرنين منسوخة بالإتفاق، لأنها كانت في ابتداء الإسلام

Thus, the urine of all animals - be they *halaal* or *haraam* - is *najis* (impure) and *haraam*. It is not permissible to drink it and use it as medicine, according to Imaam Abu Haneefah رحمة الله عليه. According to Imaam Abu Yusuf رحمة الله عليه, it is permissible to use it as medicine in the case of *dhoroorah* (dire necessity).

The story of this Hadeeth which abrogates the Hadeeth of `Uraynah, is that it has been narrated that after Rasoolullaah صلى الله عليه وسلم completed the burial of one pious Sahaabi who was trialled with `Adhaab in the *qabr*, he went to the wife of this Sahaabi and asked her about his *a`maal*. She said that he used to be a shepherd for sheep and did not protect himself from the urine (of these animals). Rasoolullaah صلى الله عليه وسلم then said, "Keep away from urine, because the majority of the `Adhaab in the *qabr* is on account of it."

From the aspect of the *shaan-e-nuzool* also, it is *khaas* for the urine of permissible animals, just as the abrogated (Hadeeth) is *khaas* for (those animals as well), but the lesson is derived from the generality of the words.

Another thing that shows that the Hadeeth of 'Uraynah is abrogated is the fact that *muthlab* (mutilation) mentioned in the Hadeeth of 'Uraynah is *mansookh* according to *ittifaq* (consensus), because it had been in the beginning of Islaam.

(وإذا أوصى بخاتم لإنسان ثم بالفصن منه لآخر، أن الحلقة للأول والفص بينهما)

تأييد لمقدمة مفهومة مما قبل وهي: أن العام مساو للخاص بمسألة فقهية وهي: أنه إذا أوصى أحد بخاتمه لإنسان، ثم أوصى بكلام مفصول بعده بفص ذلك الخاتم بعينه لإنسان آخر، فتكون الحلقة للموصى له الأول خاصة، والفص مشتركاً بين الأول والثاني على السواء

وذلك لأن الخاتم عام، أي: كالعام، لأن العام المصطلح هو ما يشمل أفراداً، والخاتم لا يصدق إلا على فرد واحد، ولكنه كالعام يشمل الحلقة والفص كليهما، والفص خاص بمدلوله فقط

إذا ذكر الخاص بعد العام بكلام مفصول وقع التعارض بينهما في حق الفصن فيكون الفصن للموصى لهما جمياً تسويةً للعام مع الخاص

The author says: "If a person makes a *wasiyyat* (bequest) of a ring for a certain person, and thereafter makes a *wasiyyat* of the stone (gem) in that ring for another person, the (ruling is) that the ring belongs to the first person and the stone is jointly owned between both of them."

This is a strengthening for an introduction that is understood from what (has been mentioned) before, and that is: 'Aam is equal to *khaas*, in a *Fiqhi* ruling, which is that if a person gives a *wasiyyat* to another, for a ring, and thereafter makes another *wasiyyat*, in a conversation or speech that is disconnected from the first (*wasiyyat*), in which he gives as *wasiyyat* the stone of that ring to another person, then in this case, the ring belongs to the first person in a way that is *khaas* (exclusively for him), and the stone is jointly owned between both of them equally. That is because the ring is 'aam, i.e. like 'aam, because the linguistic meaning of 'aam is that which encompasses (different) individuals, and the ring cannot truthfully be applied except to one individual, but it is like 'aam in that it encompasses both the ring as well

as the stone, whereas the stone is *khaas* for its *madlool* (that which the word points out to) only.

So if a person mentions *khaas* after *'aam*, with a speech that is disconnected, then a conflict occurs between them with regards to the stone (of the ring), so the stone belongs to both of them, making *'aam* equal to *khaas*.

بخلاف ما إذا أوصى بالفصح بكلام موصول فإنه يكون بياناً، لأن المراد بالخاتم فيما سبق الحلقة فقط، فتكون الحلقة للأول والفص للثاني

وعند أبي يوسف رحمه الله يكون الفص للثاني البتة سواء أتى بكلام موصول أو مفصول، لأن الوصية إنما تلزم بعد مماته لا في حياته، فكان الموصول والمفصول سواء، كما في الوصية بالرقة لإنسان وبخدمتها لآخر، يكون الرقة للموصى له الأول والخدمة للثاني سواء كان بكلام موصول أو مفصول

ونحن قلنا: الوصية بالرقة لا تتناول الخدمة لأنهما جنسان مختلفان بخلاف الخاتم فإنه يتناول الفص لا محالة فيكون كالقياس مع الفارق

ثم إن في هذا المقام عامين إختلف فيهما الشافعي مع أبي حنيفة رحمهما الله ظناً منه بأنهما مخصوصان عند أبي حنيفة رحمه الله، وليس كذلك

تقرير الأول: أن في قوله تعالى: **وَلَا تَأْكُلُوا مِمَّا لَمْ يُذْكَرِ اسْمُ اللَّهِ عَلَيْهِ**

كلمة "ما" عامة لكل ما لم يذكر اسم الله عليه عاماً أو ناسياً فينبغي أن لا يحل متروك التسمية أصلاً كما ذهب إليه مالك رحمه الله

ولكنكم خصتم الناسي من هذا وقلتم إنه يجوز متروك التسمية ناسياً، والآية محمولة على العامل فقط

قلنا: إننا نخص العامل منه أيضاً بالقياس على الناسي وبخبر الواحد وهو قوله عليه الصلاة والسلام:

الْمُسْلِمُ يَذْبَحُ عَلَى اسْمِ اللَّهِ سَمَّى أَوْ لَمْ يُسَمِّ

فِلَمْ يَقِنْ فِي الْآيَةِ إِلَّا مَا كَانَ مَذْبُوحًا بِأَسْمَاءِ الْأَصْنَامِ

This is contrary to the case of him giving a *wasiyyat* of the stone (of the ring) to another person in a speech that is connected (to the first *wasiyyat*), because in that case it would act as an explanation, because the intended meaning of ring in that which has preceded is only the circle, thus the circle (the ring without the stone) will go to the first person and the stone will go to the other.

According to Imaam Abu Yusuf رحمة الله عليه, the stone belongs to the second person no matter what, regardless of whether the speech (in which that *wasiyyat* was made) is connected to the first or disconnected, because a *wasiyyat* only becomes binding after the death of the one making the *wasiyyat*, not during his life, and thus whether the speech is connected or disconnected is the same, like in the case of a person giving *wasiyyat* of a slave to a certain person but giving *wasiyyat* of the service of that slave to another. In this scenario, the slave will belong to the first person and the service of the slave will belong to the second, regardless of whether the speech (in which the second *wasiyyat* was made) was connected to the first or not.

We (the Ahnaaf) say: "The *wasiyyat* of (giving) the slave does not include the service (of the slave), because they are two different *jins* (species), unlike the case of the ring, because the ring includes the stone absolutely, so this is like *qiyaas ma`al faariq* (analogy with discrepancy).

Thereafter, in this issue there are two `aams wherein Imaam ash-Shaafi`ee رحمة الله عليه differed with Imaam Abu Haneefah رحمة الله عليه, because he thought that they were *makhsuus* (specified) according to Imaam Abu Haneefah رحمة الله عليه whereas that is not the case.

The first of these differences is that, in the Ayah:

{"And do not eat from that upon which the Name of Allaah was not mentioned..."}

The word "maa" mentioned in this Ayah is `aam, and thus it encompasses everything upon which the Name of Allaah was not recited (with regards to meat), whether the recitation of *Tasmiyah* was omitted intentionally or

forgetfully; thus, according to this, it should be the case that the animal upon which the *Tasmiyah* was not recited should not be permissible, as is the view of Imaam Maalik رحمة الله عليه. However, you (i.e. the Ahnaaf) have specified (made *khaas*) the forgetful one from this and thus have said that if the recitation of *Tasmiyah* was omitted forgetfully, then the animal is permissible and the Aayah is referring only to one who leaves it out intentionally.

We (the Ahnaaf) say: "We make *khaas* (specific) from it the one who does so intentionally as well, through *qiyaas* (analogy) upon the one who forgets and by a *khabr-e-waahid*, which is the Hadeeth:

"The Muslim slaughters upon the Name of Allaah, whether he recited the (*Tasmiyah*) or not."

Thus, nothing remains in the Aayah except that which had been slaughtered in the names of the idols.

وتقدير الثاني: أن في قوله تعالى:

وَمَنْ دَخَلَهُ كَانَ آمِنًا

كلمة "من" أيضاً عامة شاملة لمن دخل في البيت بعد قتل إنسان، أو بعد قطع أطرافه أو دخل في البيت ثم قتل فيه أحداً فينبعي أن يكون كل من هؤلاء آمناً

وأنتم خصتم من هذا من قتل في البيت بعد الدخول ومن دخل فيه بعد قطع أطرافه، وقلتم: إنه يقتضي من هذين في البيت

قلنا: إننا نخص الصورة الثالثة أيضاً وهو من دخل في البيت بعد أن قتل إنساناً فيقتضي منه بالقياس على الصورتين الأوليين، ويخبر الواحد وهو قوله عليه الصلاة والسلام:

الْحَرَمُ لَا يُعِيدُ عَاصِيًّا وَلَا فَارَّا بِدِمٍ

ولم يبق تحت هذا العام إلا الآمن من عذاب النار

The second difference is with regards to the Aayah:

{ "And whosoever enters it shall be secure..." }

The word "whosoever" is 'aam, encompassing all of those who enter the Ka`bah even after killing a person or cutting off his limbs, or someone who enters the Ka`bah and thereafter kills someone inside of it. This would then necessitate that all such people be granted security (because they have entered the Haram). But you (Ahnaaf) have excluded from this (Aayah) the one who kills inside the Haram after having entered it or who enters it after having cut off someone's limbs, and you say *qisaas* (retribution) is exacted from both such people even inside the Haram.

We (the Ahnaaf) say: "We exclude the third scenario as well, which is the one who enters the Ka`bah after having killed someone, and we say that *qisaas* is exacted from him as well through *qiyaas* (analogical reasoning) upon the first two scenarios, and with a *khabr-e-waahid*, which is the Hadeeth:

"The Haram does not grant protection to one disobedient (to Allaah) nor one who is running away on account of blood (i.e. murder)."

Thus, nothing remains under this 'aam except the one who is secure from the 'Adhaab of the fire of Jahannam.

فأجاب المصنف رحمه الله عن جانب أبي حنيفة رحمه الله بقوله:

(ولا يجوز تخصيص قوله تعالى: ولا تأكُلوا مِمَّا لَمْ يُذْكُرِ اسْمُ اللَّهِ عَلَيْهِ \* وَمَنْ دَخَلَهُ كَانَ آمِنًا \*  
بالقياس وخبر الواحد)

أي لا يجوز تخصيص الشافعي رحمه الله العامل من قوله تعالى: ولا تأكُلوا مِمَّا لَمْ يُذْكُرِ اسْمُ اللَّهِ عَلَيْهِ, بالقياس على الناسي

وبخبر الواحد, وهو قوله عليه الصلاة والسلام: الْمُسْلِمُ يَدْبَحُ عَلَى اسْمِ اللَّهِ سَمَّى أَوْ لَمْ يُسَمِّ

وتحصيص الداخل في البيت بعد ما قتل عن قوله تعالى: وَمَنْ دَخَلَهُ كَانَ آمِنًا, بالقياس على القاتل بعد الدخول وعلى قاطع الأطراف, وبقوله عليه الصلاة والسلام: الْحَرَمُ لَا يُعِينُ عَاصِيًّا وَلَا فَارًِا بِدَمٍ

(لأنهما ليسا بمحضتين)

تعليق لقوله: (لا يجوز) أي لأن هذين العامين ليسا بمحضتين أولاً كما زعمتم حتى يخص ثانياً  
بالقياس وخبر الواحد، لأن الناسي ليس بداخل قوله تعالى: مِمَّا لَمْ يُذْكُرِ اسْمُ اللَّهِ عَلَيْهِ \*  
أصلاً، إذ هو في معنى الذاكر، فلم يخص من الآية حتى يقاس عليه العائد

وكذا الذي عليه قصاص في الطرف لم يخص من الآمن إذ المراد بالآمن آمن الذات، والأطراف  
كأنها ليست من الذات بل من المال

The author رحمة الله عليه responds on behalf of Imaam Abu Haneefah رحمة الله عليه by saying:

"It is not permissible to do *takhsees* (make specific) the Aayah:

{"And do not eat from that upon which the Name of Allaah was not mentioned..."}

And the Aayah:

{"And whosoever enters it shall be secure..."}

Using *qiyaas* and a *khabr-e-waahid*."

Meaning, it is not permissible for Imaam ash-Shaafī`ee رحمة الله عليه to specify the one who purposely omits the *Tasmiyah*, in the Aayah: {"And do not eat from that upon which the Name of Allaah was not mentioned..."} by using *qiyaas* upon the one who omits it forgetfully and by a *khabr-e-waahid*, which is the Hadeeth: "A Muslim slaughters upon the Name of Allaah, whether he recites (the *Tasmiyah*) or not." And it is also not permissible for him to specify the one who enters the Ka`bah after killing someone, in the Aayah: {"And whosoever enters it shall be secure..."} by using *qiyaas* upon the one who kills after entering and upon the one who had cut off the limbs (of another person), and by the Hadeeth: "The Haram does not protect one who is disobedient (unto Allaah Ta`alaa) nor one who has run away because of blood (i.e. murder)."

The author says:

"Because they are not *makhsuus* (specified)."

This is to explain his statement, "it is not permissible," i.e. because these two `aams are not *makhsuus* in the first place like you claim (i.e. the Shaafī `iyyah), so much so that a second can be made *khaas* of through *qiyas* and a *khabeer-waahid*, because the forgetful one is not included in the Ayah: {"*And do not eat from that upon which the Name of Allaah was not mentioned...*"} because he is part of the meaning of one who remembers, so he is not made *khaas* of from the Ayah so much so that *qiyas* can be made upon the one who omits the *Tasmiyah* intentionally.

Similarly, the one upon whom *qisaas* is due on account of having severed the limbs of another, he is not made *khaas* of from (the Ayah mentioning) security, because the meaning of secure there is secure in life, and it is as though the limbs are not part of life but rather, part of wealth.

وَكَذَا القاتلُ بَعْدَ الدُّخُولِ فِيهِ، إِذْ مَعْنَى قَوْلِهِ تَعَالَى:

وَمَنْ دَخَلَهُ كَانَ آمِنًا

من دخله بعد ما صار مباح الدم بردة، أو زنا، أو قصاص، لا أنه باشر هذه الأمور بعد الدخول،  
 فهو خارج عن مضمون الآية لا أنه مخصوص منها

لا يقال إن ضمير "دخله" راجع إلى البيت، والمقصود بيان آمن الحرم، لأننا نقول: إن حكمهما  
واحد بدليل قوله تعالى:

أَوْ لَمْ يَرَوْا أَنَّا جَعَلْنَا حَرَمًا آمِنًا

Similarly, the one who kills after entering it, because the meaning of the Ayah:

{"*And whosoever enters it shall be secure...*"}

This refers to the one who enters it after having become *mubaah-ud-damm* (one whose blood is permissible to be shed) on account of *riddah*, or *zinaa* or *qisaas*, not that he perpetrates these crimes after having entered (the Ka`bah) because then he would be outside the scope of this Ayah, not specified from it.

It is not to be said that the pronoun in the word "whosoever enters it" (i.e. the "it") is a reference to the Ka`bah and the intended meaning is the security of the Haram, because we say: their ruling is word, using as evidence the Aayah:

{"Do they not see that We have made the Haram a place of security...?"}

### حکمه بعد التخصيص

ثم إن المصنف رحمه الله لما فرغ عن بيان العام الغير المخصوص شرع في بيان العام المخصوص وأورد فيه ثلاثة مذاهب وبين كل مذهب بدليل وشبهه بمسألة فقهية فقال: (فإن للحقة خصوص معلوم أو مجهول لا يقى قطعياً لكنه لا يسقط الإحتجاج به)

أي: إن لحق هذا العام الذي كان قطعياً مخصوص معلوم المراد، فالمختار أنه لا تبقى قطعية، ولكن يجب العمل به كما هو شأنسائر الدلائل الظنية من خبر الواحد والقياس والتخصيص في الإصطلاح هو قصر العام على بعض مسمياته بكلام مستقل موصول فإن لم يكن كلاماً بأن كان عقلاً، أو حسناً، أو عادة، أو نحوه لم يكن تخصيصاً إصطلاحاً ولم يصر ظنياً

وكذا إن لم يكن مستقلاً بل كان بغاية، أو شرط، أو استثناء، أو صفة، وسيجيء تفاصيلها، وكذا إن لم يكن موصولاً، بل كان متراخيًا لا يسمى تخصيصاً بل نسخاً على ما سيجيء

وهكذا قالوا

## 4. Its Ruling After *Takhsees*

Thereafter, the author رحمة الله عليه, after completing his explanation on `aam of which nothing of it is *makhsous*, he now commences his explanation on *al-`aam al-makhsous* ( `aam, a part of which is *makhsous*). He mentions three Madhaahib regarding it, and he explains each Madh-hab with evidence, and he then resembles it to a Fiqhi *mas'alah*, so he says:

"So if a known or unknown *khusoos* (specification) is attached to it, it will not remain as *qat`iyy*, but it can still be used as evidence."

Meaning, if this `aam which was *qat`iyy* gets a *khusoos* (specification) attached to it, be that *khusoos* one which has a known meaning or unknown meaning, then the chosen view is that its status as *qat`iyy* falls away; however, it is still

*waajib* to act upon it as is the case with all of the *z̄hanni* (speculative) evidences, such as *khabr-e-waahid* and *qiyaas*.

From a terminology point of view, *takhsees* (specifying) is to restrict or shorten *‘aam* from some of its particulars, with an independent speech that is connected (to it). If it is not speech, such as it being something understood through the intellect, or through the senses, or a habit, etc., then this will not be the technical meaning of *takhsees* and it (*‘aam*) will not become *z̄hanni* (speculative).

The same is the case if it is not *mustaqill* (independent) but rather a *ghaayah* (objective), or a *shart* (condition), or a *sifah* (quality), and further details about this will be mentioned later on. The same is also the case even if it is not connected but rather it is delayed: it will not be termed *takhsees*, but rather, it will be *naskh* (abrogation), and this will be explained later on.

This is as they have said.

وعند الشافعي رحمه الله كل ذلك يسمى تخصيصاً لأنه عنده هو قصر العام على بعض  
المسميات مطلقاً

According to Imaam ash-Shaafi`ee رحمة الله عليه, all of that is referred to as *takhsees*, because *takhsees*, according to him, is to reduce *‘aam* (or shorten *‘aam*) from some of its particulars, generally.

وكثيراً ما يطلق التخصيص على المترافق مجازاً عندنا أيضاً

Often does *takhsees* get used in a general way to refer to something that is delayed or deferred, by way of metaphor.

نظير الخصوص المعلوم والمجهول قوله تعالى:

وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَمَ الرِّبَا

فإن البيع لفظ عام لدخول لام الجنس فيه وقد خص الله منه الربا وهو في اللغة: الفضل ولم يعلم أي فضل يراد به، لأن البيع لم يشرع إلا للفضل، فهو حينئذ نظير الخصوص المجهول

An example of *khusoos* that is *ma`loom* (known) and *khusoos* that is *majhool* (unknown) is the Ayah:

{ "And Allaah permitted business (buying and selling) and prohibited ribaa..." }

Bay` (business, or buying and selling) is a term that is `aam because it contains the *laam-ul-jins* (i.e. *al*), and Allaah has excluded from it *ribaa* (interest), and *ribaa*, linguistically, is: surplus. It is not known what type of surplus is intended, because bay` (business) is for the sake of surplus, so it then is an example of *khusoos* that is *majhool* (unknown).

ثُمَّ بَيْنَهُ النَّبِيُّ عَلَيْهِ الصَّلَاةُ وَالسَّلَامُ بِقَوْلِهِ: الْحِنْطَةُ بِالْحِنْطَةِ، وَالشَّعِيرُ بِالشَّعِيرِ، وَالثَّمْرُ بِالثَّمْرِ  
وَالْمِلْحُ بِالْمِلْحِ وَالْذَّهَبُ بِالْذَّهَبِ وَالْفِضَّةُ بِالْفِضَّةِ، مَثَلًاً بِمَثَلٍ، يَدًاً بِيَدٍ، وَالْفَضْلُ رِبَّا

Then, Nabi ﷺ explained it by saying: "Wheat for wheat, barley for barley, dates for dates, salt for salt, gold for gold, silver for silver, equal for equal, hand to hand, and surplus is *ribaa*."

فَهُوَ حِينَئِذٍ نَظِيرُ الْخُصُوصِ الْمَعْلُومِ وَلَكِنْ لَمْ يَعْلَمْ حَالَ مَا سَوْيَ الْأَشْيَاءِ الشَّتَّةِ الْبَتَّةِ. وَلَهُذَا قَالَ  
عُمَرُ رَضِيَ اللَّهُ عَنْهُ: خَرَجَ النَّبِيُّ عَنَا وَلَمْ يَبْيَنْ لَنَا أَبْوَابَ الرِّبَا، أَيْ بَيَانًاً شَافِيًّاً

That, then, is an example of *khusoos* that is known; however, the state of what is other than the six mentioned things is not known, and for this reason Hadhrat `Umar رضي الله عنه said: "Nabi ﷺ left us (i.e. passed away) and he had not explained the categories of *ribaa*." Meaning, he had not given a complete explanation of the different types and categories.

فَاحْتَابُوا إِلَى التَّعْلِيلِ وَالِإِسْتِنْبَاطِ فَعَلَّلُ أَبُو حَنِيفَةَ بِالْقَدْرِ وَالْجُنْسِ بِالطَّعْمِ وَالشَّمْنِيَّةِ، وَمَالِكُ رَحْمَهُ اللَّهُ  
بِالِإِقْتِيَّاتِ وَالِإِدْخَارِ

Thus, the Fuqahaa and Mujtahideen resorted to *ta`leel* (giving `illats) and *istimbaat*, so according to Imaam Abu Haneefah رحمة الله عليه, the `illat is amount, species, taste and value. According to Imaam Maalik رحمة الله عليه, it is that which can be used for nourishment (food) and that which can be stored.

فَعَمِلَ كُلُّ بِمَقْنَصِي تَعْلِيلِهِ فِي تَحْرِيمِ أَشْيَاءٍ وَتَحْلِيلِ أَشْيَاءٍ عَلَى مَا يَأْتِي فِي بَابِ الْقِيَاسِ إِنْ شَاءَ اللَّهُ  
تَعَالَى

Thus, each one acted according to their *ta`leel* (reasoning) in declaring some things as prohibited and some things as permissible, and this will be explained in further detail in the chapter on *qiyaaas* (analogical reasoning), إن شاء الله تعالى.

(عملاً بشبه الإستثناء والنسخ)

The author says:

"In accordance with that which resembles *istithnaa* (exclusion) and *naskh* (abrogation)."

تعليق للمذهب المختار

A *ta`leel* for the chosen Madh-hab.<sup>3</sup>

وبيانه: أن دليل التخصيص وهو قوله تعالى:

وَحَرَمَ الرِّبَا

يشبه الإستثناء باعتبار حكمه وهو أن المستثنى كما لم يدخل فيما قبل كذلك المخصوص لم يدخل تحت العام

The explanation of it is that the evidence of *takhsees*, which is the Aayah:

{"And He prohibited ribaa...”}

It resembles *istithnaa* (exclusion), if you take into consideration its ruling, which is that the *mustathnaa* (that which has been excluded), just as it does not enter into what was before, so too does a *makhsoos* not enter under `aam.

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<sup>3</sup> The meaning of "the chosen Madh-hab" is the Madh-hab (or the *Fiqhi* position on this issue) chosen by Imaam an-Nasafi, and Imaam al-Bazdawi, and Imaam ad-Daboosi, etc., which is that when you have `aam after *takhsees*, then you can use it as evidence, but this evidence will be *zhanni* (speculative) and not *qat`iyy* (absolute), regardless of whether the *makhsoos* is *majhool* (unknown) or *ma`loom* (known).

ويشبه الناسخ باعتبار صيغته، وهو أن صيغته مستقلة كالناسخ، فيجب علينا أن نراعي كلا الشبهين ونوفر حظ كل منهما على تقدير كون الخصوص معلوماً ومحظواً، لا أن نقتصر على الشبه الأول كما اقتصر عليه أهل المذهب الثاني، ولا أن نقتصر على الشبه الثاني كما اقتصر عليه أهل المذهب الثالث

فقلنا: إذا كان دليلاً الخصوص معلوماً فرعاية شبه الإستثناء تقتضي أن بقي العام قطعياً على حاله لأن المستثنى إذا كان معلوماً كان المستثنى منه في الأفراد الباقيه على حاله

ورعاية شبه الناسخ تقتضي أن لا يصح الإحتجاج بالعام أصلأً لأن الناسخ مستقل وكل مستقل يقبل التعليل وإن لم يقبل الناسخ بنفسه التعليل لثلا يلزم معارضه التعليل النص

And it resembles *naasikh* (an abrogator) from the aspect of its word-form, because its word-form is independent like *naasikh*, so it is necessary for us to take into consideration both of the resemblances and to increase the portion of each of the two, whether the *khusoos* is known or unknown. We cannot restrict ourselves to the first resemblance as is done by the people of the second Madh-hab, nor do we restrict ourselves to the second resemblance as is done by the people of the third Madh-hab.

We (the Ahnaaf) say: "If the evidence for *khusoos* is known, then, taking into consideration the resemblance of exclusion necessitates that the status of `aam remains, because a *mustathnaa*, when it is known, then the *mustathnaa minhu* (that which is excluded from it) remains upon its state in the remainder of its individuals.

Taking into consideration the resemblance of *naasikh* necessitates that as a rule it is not valid to use `aam as evidence, because *naasikh* is independent, and every *mustaqill* (independent) can accept *ta`leel* (justification; warranting) even if the *naasikh* itself does not accept *ta`leel*, so that no contradiction comes about between the *ta`leel* and the *nass* (clear text).

وإذا قبل التعليل فلا يدرى كم يخرج بالتعليق وكم بقي فيصير مجحولاً وجهاته تؤثر في جهالة العام

فلرعايه الشبهين جعلنا العام بين بين، وقلنا: لا يبقى قطعياً ولكن يصح التمسك به

وإذا كان دليل الخصوص مجهولاً فينعكس المعلوم يعني أن رعاية شبه الإستثناء تقتضي أن لا يصح التمسك بالعام أصلاً لأن جهالة المستثنى تؤثر في جهالة المستثنى منه والمجهول لا يفيد شيئاً

ورعاية شبه الناسخ تقتضي أن يبقى العام قطعياً لأن الناسخ المجهول يسقط بنفسه فلرعاياه الشبهين جعلنا العام ههنا أيضاً بين وبين وقلنا: لا يبقى قطعياً ولكن يصح التمسك به

(فصار كما إذا باع عبدين بألف على أنه بال الخيار في أحدهما بعينه وسمى ثمنه)

تشبيه لدليل الخصوص المذكور بمسألة فقهية

And if it accepts *ta`leel*, then it is not known how much goes out with the *ta`leel* and how much remains, thus it becomes *majhool*, and its status of being unknown has an accept on making the *`aam* unknown as well.

So, due to taking into considerations both possibilities or resemblances, we make *`aam* as being in-between, so we say: it does not retain its status as being *qat`iyy* (absolute), but at the same time, it is still valid to hold on to it.

When the *daleel* of *khosoos* (specification) is unknown, then the *ma`loom* (what is known) becomes reversed, i.e. taking into consideration the resemblance of *istithnaa* necessitates that it not be valid to hold onto *`aam*, as a rule, because the *jahaalat* (status of being unknown) of the *mustathnaa* affects the *jahaalat* of the *mustathnaa minhu*, and something that is unknown gives no meaning at all.

Taking into consideration the resemblance of *naasikh* necessitates that the *`aam* remains as *qat`iyy* (absolute), because the unknown *naasikh* (abrogator) itself falls away, so due to taking into consideration both resemblances, we make *`aam* here also in-between, so we say: it does not remain *qat`iyy*, but nonetheless it is valid to hold on to it.

The author says:

"So it becomes like how if he were to sell two slaves for a thousand (dinars or dirhams), on condition that he has a choice with regards to one of them, and he names his price."

The author here is drawing a resemblance between the evidence of *khusoos* and a *Fiqhi mas'alah*.

أي صار دليل الخصوص على هذا المذهب المختار نظير هذه المسألة الفقهية، وهي أن يعين الخيار في أحد العبدين المبيعين ويسمى ثمنه على حدة، وذلك لأن هذه المسألة على أربعة أوجه:

أحدها: أن يعين محل الخيار ويسمى ثمنه

والثاني: أن لا يعين ولا يسمى

والثالث: أن يعين ولا يسمى

والرابع: أن يسمى ولا يعين

فالعبد الذي فيه الخيار داخل في العقد غير داخل في الحكم

فمن حيث أنه داخل في العقد يكون رد المبيع بخيار تبديلاً فيكون كالناسخ

What he means by this is that the evidence of *khusoos* (specification), according to the chosen Madh-hab (point of view), is an example of this *Fiqhi mas'alah*, which is that the seller keeps the right of *khijaar* (option to take back) for one of the two slaves that he has sold him, and he names the price of that slave with a limit, and that is because there are four different scenarios to this *mas'alah*:

1. The seller makes known to the buyer which one of the two slaves the seller will have *khijaar* in, and the seller mentions the price as well. (for example, the seller sells two slaves, one named 'Amr and one named Zaid, and he says to the buyer that each one is being sold for 500 dirhams, making the complete sale 1,000 dirhams, and he says that he will have the right of *khijaar* with regards to 'Amr.)
2. The seller sells the two slaves to the buyer, telling him that he will have the right of *khijaar*, but he does not tell the buyer the price of each individual slave and he also does not tell the buyer which slave he will have the option of *khijaar* for.
3. The seller sells the two slaves to the buyer. He tells the buyer which slave (whether 'Amr or Zaid) he will have *khijaar* for, but he does not tell the buyer the price of each individual slave.

4. The seller sells the two slaves to the buyer. He names the price of each individual slave, but he does not tell the buyer which one of the two he will have the right of *khiyaar* for.

Now in this case, the slave in whom there is the right of *khiyaar*, he is part of the contract but not part of the ruling. The slave enters into the contract because *eejaab* has taken place on both slaves, but he is not part of the ruling (*hukm*) because of the fact that, the ruling of the transaction is that the buyer will come into possession (of the slave), but when *khiyaar* is for the seller, then, that slave which the seller has *khiyaar* for will not leave his possession or ownership and will not enter into the ownership of the buyer.

From the aspect of him being part of the contract, the returning of the sold commodity (this slave) through *khiyaar* will be a *tabdeel* (exchange of the contract), so it is like abrogation.

ومن حيث أنه غير داخل في الحكم يكون رده بيان أنه لم يدخل فيكون كالإثناء فيكون  
المخصوص الذي له شبه بالإثناء وشبه بالنسخ

فرعائية شبه النسخ تقضي صحة البيع في الصور الأربع لأن كلاً من العبددين بالنظر إلى الإيجاب  
مبيع واحد فلا يكون بيعاً بالحصة ابتداءً بل بقاءً

ورعائية شبه الإثناء تقضي فساد البيع في الصور الأربع لجعل ما ليس بمبيع شرطاً لقبول المبيع

فلرعاية الشهرين قلنا أن علم محم الخيار وثمنه وهو المذكور في المتن صحة البيع لشبه الناسخ  
ولم يعتبر هاهنا جعل قبول ما ليس بمبيع شرطاً لقبول المبيع كما اعتبر إذا جمع بين الحر والعبد  
وفصل الشمن لأن الحر لم يكن محلًا للبيع وشرط قبوله ليس من مقتضيات العقد

وفي مسألتنا العبد الذي فيه الخيار داخل في العقد فلا يكون ضمه مخالفًا لمقتضى العقد

وإن جهل أحدهما أو كلاهما لا يصح لشبه الإثناء

From the aspect of this slave not entering into the *hukm* (ruling), then, returning him clarifies that he had never entered (into the ruling), so it is like *istithnaa* (exclusion), so it is like *mukhassas* (that which has been specified) which has a resemblance to *istithnaa* (exclusion) and a resemblance to *naskh* (abrogation).

Taking into consideration the resemblance with *naskh* (abrogation) necessitates that the sale be valid in all four above-mentioned scenarios, because both slaves are - looking at it from the perspective of *eejaab* (an offer or proposal) - are sold with one sale, so it is not a sale with its portion (price) in the beginning, but rather, in the end. [What he means by this is, both slaves are sold in one sale, so returning one of them through *khiyaar-ush-shart* will act as a nullification of the sale entirely. If you say: if one of the two slaves is returned through *khiyaar-ush-shart*, and the sale is maintained with the other slave, then the price of 1,000 (dinars or dirhams) is split according to the value of each slave, so whatever the other is worth becomes binding upon buyer, and this is *al-bay` bil-hissah*, and it is invalid due to the price being unknown. The answer is that this is *al-bay` u bil-hissah*, yes, but at the end, not in the beginning, and what is invalid is when *al-bay` u bil-hissah* is at the beginning, such as by saying: "I sell you this slave with its portion from the price of 1,000 which is divided according to its value and the value of the other slave. - *Qamar-ul-Aqmaar*, p.147.]

Taking into consideration the aspect of resemblance with *istithnaa* (exclusion) necessitates that the sale be invalid in all four above-mentioned scenarios due to it making what is not sold a stipulation for the acceptance of that which is being sold. Due to taking into consideration both resemblances, we say: if the slave in which there is *khiyaar* is known and the price is known as well, which is (the scenario) mentioned in the text (of this Kitaab), then the sale is valid due to the resemblance with *naasikh*.

No consideration will be given here to the making of what is not being sold a condition for the accepting of that which is sold, like how it is considered if he joins between a slave and a free person and he separates the price, because the free person is not capable of being sold, and thus making the accepting of him a condition is not from the necessities of the contract.

In our *mas'alah*, the slave in whom there is *khiyaar* enters into the contract, so attaching him does not contradict the necessity of the contract.

If one of them or both of them are unknown, then the sale is invalid due to the resemblance with *istithnaa* (exclusion).

ففي صورة جهل كليهما يصير كأنه قال بعث هذين العبددين بألف إلا أحدهما بحصة ذلك وذلك باطل

وفي صورة جهل المبيع يصير كأنه قال بعث هذين العبددين بألف إلا أحدهما بخمسينه

وفي صورة جهل الشمن يصير كأنه قال بعدهما بـألف إلا هذا بـحصة من الألف  
ولم يعتبر في هذه الصور شبه الناسخ المجهول يسقط بنفسه فيبطل شرط الخيار  
ويلزم العقد في العبدين وهو خلاف ما قصده القائل

(وقيل إنه يسقط الإحتجاج به كـالإستثناء المجهول لأن كل واحد منها لبيان أنه لم يدخل)

هذا هو المذهب الثاني وإليه ذهب الكرخي وعيسي بن أبيان

In the scenario of neither of them being known, it becomes as though he had said: I am selling both of these slaves for 1,000 (dinars or dirhams), except one of them with the portion of that, and that is invalid.

In the scenario of the commodity being unknown, it becomes as though he had said: I am selling both of these slaves for 1,000, except one of them for 500.

In the scenario of the price being unknown, it becomes as though he had said: I am selling both of these slaves for 1,000, except for this one with (a portion) from the 1,000.

No consideration is given in these scenarios to the resemblance with *naasikh*, because an unknown *naasikh* falls away by itself and thus the *shart* of *khiyaar* is nullified and the contract becomes binding with regards to both of the slaves, and that is contrary to what the speaker had intended.

The author says:

"And it is said: using it as evidence falls away, like an unknown *istithnaa* (exclusion), because each of them explains that it had not entered."

This is the second Madh-hab (point of view) which was adopted by Imaam al-Karkhi and Imaam `Eesa ibn Abaan.

وهو لاء قد فرطوا في هذا العام المخصوص البعض ويقولون لا يقى العام قبلاً للتمسك أصلاً سواء  
كان المخصوص معلوماً كما إذا قيل: أَقْتُلُوا الْمُشْرِكِينَ وَلَا تَقْتُلُوا أَهْلَ الذِّمَّةِ

أو مجهولاً كما إذا قيل: أَقْتُلُوا الْمُشْرِكِينَ وَلَا تَقْتُلُوا بَعْضَهُمْ

وشيءوه بالإستثناء فقط لأنهم لا يراعوا جانب الصيغة بل اعتبروا المعنى فقط وهو عدم الدخول

وإنما شبهوه بالإستثناء المجهول لأنه إذا كان دليل الخصوص مجهولاً فظاهر أنه كالمجهول وإن كان معلوماً فبالتعليق يصير مجهولاً وإن كان الإستثناء في نفسه مما لا يقبل التعليل

(فصار كالبيع المضاف إلى حر وعبد بشمن واحد)

تشبيه لدليل هذا المذهب بمسألة فقهية مذكورة فإنه إذا باع العبد والحر بشمن واحد بأن يقول: بعثهما بالألف، فالحر لا يدخل في البيع فيكون إستثناء وبيعاً للعبد بالحصة من الألف ابتداءً، فالحر لا يدخل ابتداءً وهو باطل لجهالة الشمن، بخلاف ما إذا فصل الشمن بأن يقول:

(بعث هذا بخمسينية وهذا وهذا بخمسينية)

فإنه يجوز عندهما، خلافاً لأبي حنيفة رحمه الله لجعل قبول ما ليس بمبيع شرطاً لقبول المبيع (وقيل: إنه يبقى كما كان إعتباراً بالناسخ لأن كل واحد منهما مستقل بنفسه بخلاف الإستثناء)

هذا هو المذهب الثالث، فهؤلاء قد أفرطوا في حق العام بإيقائه قطعياً كما كان وشبهوه بالناسخ فقط من حيث استقلال الصيغة ولم يلتفتوا إلى رعاية جانب الإستثناء قط

فإن كان دليل الخصوص معلوماً فظاهر أن الناسخ المعلوم لا يؤثر في تغيير ما بقي من الأفراد الغير المنسوبة وإن كان مجهولاً فالناسخ المجهول يسقط بنفسه ولا تؤثر جهالته في تغيير ما قبله

They had become negligent with regards to *al-'aam al-mukhassas al-ba`dh* ('aam from which part is *khaas*), and they said that the 'aam cannot be adhered to, as a rule, regardless of whether the *makhsous* (exception or those excluded) is known, like how if it is said: "Kill the Mushrikeen but do not kill the Ahl-udh-Dhimmah." (here, the *makhsous* is known, which is the people of Dhimmah) or if it is unknown, like how if it is said: "Kill the Mushrikeen but do not kill some of them." (here, the *makhsous* is unknown, because it is not known exactly who "some of them" are.)

They resembled it to *istithnaa* (exclusion) only, because they did not take into consideration the aspect of word-form, but rather, they took into consideration the meaning only, and that is "the absence of entering". They resembled it to *al-isithnaa al-majhool* (the unknown exclusion) because, if the evidence of the *khusoos* is unknown, then on the apparent it is like the

*majhool* (unknown), and if it is known, then with the *ta`leel* it becomes *majhool* (unknown) even if the *istithnaa* in itself is from that which cannot accept *ta`leel*.

The author says:

"So it becomes like the sale which is attached to a free man and a slave with a single price."

This is an example to show the evidence of this Madh-hab (point of view) using a *Fiqhi mas'alah* which has been mentioned, because, if a person sells a slave and a free man with one price, such as by saying: "I sell both of them for 1,000." Then, the free man does not enter into the sale, so it is *istithnaa* (exclusion) in his case and a *bay`* (transaction) in the case of the slave with the slave's portion from the 1,000, from the onset, because the free man does not enter into the transaction from the onset, but it is invalid due to the price (of each one) being unknown. This is contrary to the case where he separates the prices, by saying: "I have sold the slave for 500 and the free man for 500."

This is permissible according to Imaam Abu Yusuf رحمة الله عليه and Imaam Muhammad رحمة الله عليه, but it is not permissible according to Imaam Abu Haneefah رحمة الله عليه. The reason Imaam Abu Haneefah does not regard it as being permissible is because in this *bay`* (transaction), the seller has made something unsellable (i.e. the free man) as being a stipulation for the acceptance of the commodity which is sellable (i.e. the slave).

The author says:

"And it has been said: It (^aam) remains as it had been, taking into consideration the aspect of *naasikh* (abrogator), because each of the two (the free man and the slave) is *mustaqill* (independent) by themselves, unlike *istithnaa* (exclusion)."

This is the third Madh-hab (point of view), and these (^Ulamaa) have gone to great lengths with regards to ^aam, by keeping it as *qat`iyy* (absolute) like how it had been, and they resemble it to *naasikh* (an abrogator) only, from the aspect of the independence of the word-form, and they did not turn to taking into consideration the aspect of *istithnaa* (exclusion) whatsoever.

Thus, if the evidence of *khusoos* is known, then on the apparent a known *naasikh* (abrogator) has no effect on changing what remains from the

individual parts (of `aam) which are not abrogated, and if it (the evidence of *khusoos*) is unknown, then an unknown *naasikh* (abrogator) falls by itself and its *jahaalat* (being unknown) has no effect on changing what was before it.

**(فصار كما إذا باع عبدين وهلك أحدهما قبل التسليم)**

تشبيه لدليل هذا المذهب بمسألة فقهية مذكورة فإنه إذا باع عبدين بشمن واحد بأن قال: بعثهما بألف، ومات أحد العبددين قبل التسليم يبقى البيع في الآخر بحصة من الألف لأنه بيع بالحصة بقاءً، فكأنه نسخ البيع في العبد الميت بعد انعقاده وهو جائز

وهاهنا مذهب رابع مذكور في التوضيح وغيره ولم يذكره المصنف وهو أن دليل الخصوص إن كان مجهولاً يسقط الإحتجاج به على ما قاله الكرخي وإن كان معلوماً فكالاستثناء وهو لا يقبل التعليل فبقى العام قطعياً على ما كان قبل ذلك

The author says:

"So it is like the case of a seller selling two slaves, but one of the slaves dies prior to them being handed over to the buyer."

Here, the author is resembling the evidence of this Madh-hab (point of view) with a *Fiqhi mas'alah* which he has mentioned. The *mas'alah* is: If a person sells two slaves for a single price, such as by saying: "I have sold both of them for 1,000." Thereafter, one of the two slaves dies before they are handed over to the buyer, then in this case, the sale still remains for the other slave who is alive, with his portion (from the price), because this is a case of *bay` bil-hissah* (sale with a portion) as an end-result, not in the beginning (i.e. it had not been the case when agreeing upon the sale.) Thus, is like an abrogation for the sale in the case of the slave who had died after the conclusion of the sale, and this is permissible.

Here, there is a fourth Madh-hab (point of view) which has been mentioned in *at-Tawdheeh* and elsewhere, but the author has not mentioned it. This Madh-hab is that, if the evidence of *khusoos* is unknown, then it is not valid to use it as evidence, as has been mentioned by Imaam al-Karkhi, but if the evidence of *khusoos* is known, then it is like *istithnaa* (exclusion) and it does not accept *ta`leel*, so the `aam remains *qat`iyy* (absolute) just as how it had been before that.

## صيغ العموم

### 4. The Word-Forms of `Uoom (Generality)

ولما فرغ المصنف عن بيان تخصيص العام شرع في ذكر الفاظه فقال:

(والعموم إما أن يكون بالصيغة والمعنى جمياً، أو بالمعنى لا غير كرجال وقوم)

يعني أن العام على نوعين:

أحدهما: ما تكون الصيغة والمعنى كلاهما عاماً دالاً على الشمول بأن تكون الصيغة صيغة جمع والمعنى مستووباً في الفهم منه

والآخر أن لا تكون الصيغة دالة على العموم ويكون المعنى مدلولاً بالإستيعاب

ولا يتصور عكسه لأن إخلاء المعنى عن اللفظ العام الموضوع غير معقول، إلا بالتخصيص وذلك شيء آخر

فالأول مثاله: رجال ونساء وغيرهما من الجموع المنكرة والمعروفة، والقلة، والكثرة، لكن في القلة من الثلاثة إلى العشرة، وفي الكثرة قيل: من الثلاثة، وقيل: من العشرة إلى ما لا ينتهي

لكن هذا مختار فخر الإسلام لأنه لا يشترط الإستيعاب في معنى العام، بل يكتفي بانتظام جمع من المسميات

وأما عند من يشترط الإستيعاب والإستغراف فيه فيكون الجمع المنكر واسطة بين الخاص والعام على ما ذكر في التوضيح

والآخر مثاله: قوم، ورهط فإن القوم صيغته صيغة مفرد بدليل أنه يبني ويجمع يقال: قومان وأقوام، لكن معناه معنى العام لأنه يطلق على الثلاثة إلى العشرة، كما أن رهطاً يطلق إلى التسعة، ولكن يشترط في إطلاق لفظ القوم أن تكون الأحاد مجتمعة

وإنما يصح الإستثناء لواحد في قوله: جاءني القوم إلا زيداً، باعتبار أن مجيء الجموع لا يكون إلا باعتبار مجيء كل واحد

After the author completed his explanation on *takhsees-ul-`aam* (making something specific from `aam), he now begins to mention the words of `aam, so he says:

"`Uloom (generality) can be either with both word-form and meaning, or with the meaning alone, like *rjaal* (men) and *qowm* (nation)."

What he means is that, `aam is of two types:

The first is that in which both the word-form and the meaning is `aam and they point out to *shumool* (comprehensiveness), by the word-form being the plural word-form and the meaning being comprehensiveness in what is understood from it.

The second type (of `aam) is that in which the word-form does not point out to `umoom (generality), but the meaning points out to plurality and inclusiveness (for all of its individual parts).

The opposite cannot be imagined, because for a word that is `aam to be devoid of the meaning of `aam would be illogical, except with *takhsees*, but that is another matter.

An example of the first type of `aam is: *rjaal* (men), *nisaa'* (women), etc, from the types of plural, be they indefinite, or definite, or *jam`-ul-qillah*, or *jam`-ul-kathrah*. *Jam`-ul-Qillah* is from 3 to 10. *Jam`-ul-Kathrah* is from 3, and some say it is from 10 until infinity.

However, this is the chosen view of Fakhr-ul-Islaam (i.e. Imaam al-Bazdawi رحمة الله عليه), because he does not set as a *shart* (condition) that there be *istee`aab* (complete inclusiveness and comprehensiveness) in the meaning of `aam, but rather, he suffices with there being a gathering of a group of particulars or named things.

As for those who stipulate *istee`aab* and *istigbraaq* (complete covering of all individual particles) in it (^aam), then to them, an indefinite *jam`* (plural) is of a stage between *khaas* and `aam, as has been mentioned in *at-Tawdheeh*.

An example of the second type of `aam is: *qowm* (nation), *raht* (group; tribe). That is because the word-form of *qowm* (nation) is *mufrad* (singular), because it can be made dual and it can be made plural, i.e. *qowmaan* (dual), and *aqwaam* (plural). However, its meaning is the meaning of `aam, because it is generally used to refer to 3 to 10, just as how *raht* is generally applied to 9; however, when it comes to using the word *qowm* (nation), there is a

condition that all of the individual components (individual people) must be together, not separated. [For example, if a person says, "The *qowm* that enters this fortress will receive such-and-such, or will be protected." Then, if the "*qowm*" enters as a whole, a group, i.e. if that *qowm* consists of 1,000 people, and all thousand of those people enter the fortress at one time, then only will this apply. If they enter it individually, one at a time, at different times, then the stipulated condition will not have been met and thus they will not be entitled to anything. This is how it has been explained by Imaam at-Taftaazaani رحمة الله عليه in *at-Talweeh*.]

*Isithnaa* (exclusion) of a single individual is only valid when saying, for example: "The *qowm* (nation or people) came except for Zaid." This is due to taking into consideration the arriving of all of them cannot be except with considering the arriving of each one.

بخلاف ما إذا قيل: يطيق رفع هذا الحجر القوم إلا زيداً، لأن الحكم هاهنا متعلق بالمجموع من حيث المجموع

ولهذا يصح: جاء العشرة إلا واحداً، ولا يصح: العشرة زوج إلا واحداً

(ومنْ وَمَا يَحْتَمِلُنَّ الْعُمُومَ وَالخُصُوصَ وَأَصْلُهُمَا الْعُمُومُ)

يعني أنهما في أصل الوضع للعموم ويستعملان في الخصوص بعارض القرائن سواء استعمالاً في الإستفهام، أو الشرط، أو الخبر

وما قيل: إن الخصوص يكون في الأخبار فمتنقض لا يطرد

(وَمَنْ فِي ذَوَاتِهِ يَعْقُلُ كَمَا فِي ذَوَاتِهِ مَا لَا يَعْقُلُ)

أي: الأصل في من أن يكون لذوات من يعقل، كقوله عليه الصلاة والسلام: مَنْ قَتَلَ قَتِيْلًا فَلَهُ سَلْبٌ

وقد يستعمل في غير من يعقل محازاً كما في قوله تعالى:

فَمِنْهُمْ مَنْ يَمْشِيْ عَلَى بَطْنِهِ

والأصل في ما أَنْ يَكُونَ فِي ذَوَاتِهِ مَا لَا يَعْقُلُ. يَقُولُ: مَا فِي الدَّارِ؟ فَالجَوَابُ: دَرْهَمٌ، أَوْ دِينَارٌ، لَا زَيْدٌ أَوْ عُمَرُو، وَقَدْ يَسْتَعْمِلُ فِي غَيْرِهِ كَمَا سِيَّأَتِي

(فِإِذَا قِيلَ: مَنْ شَاءَ مِنْ عَبِيدِيِّ الْعَقْدِ فَهُوَ حَرٌّ، فَشَاءُوا عَتَقُوا)

تَفْرِيْعُ لِكَوْنِ كَلْمَةِ مِنْ عَامَةِ

This is different to the case of saying: "The *qowm* (nation) are able to lift this stone except for Zaid," because the ruling in this case is attached to the group from the aspect of being a group (altogether). For this reason, it is valid to say: "The ten came except for one," but it is not valid to say: "The ten got married except for one."

The author says:

"The words "*man*" and "*maa*" carry the possibility of both *'umoom* (generality) and *khusoos* (exclusivity), but their default is *'umoom* (generality)."

What he means is that, by default, when they are used they are used in the meaning of *'umoom*. Sometimes they are used for *khusoos*, but there will be external factors that point out to the meaning of *khusoos* being intended, regardless of whether they are used in *istifhaam* (interrogation), or *shart* (stipulation), or *khabr* (predicate).

As for what has been said: "*Khusoos* is in *akhbaar* (what he means by *akhbaar* here is to use "*man*" as *mawsoolah* or *mawsoofah*, and not in *shart* or *istifhaam*)," then this is incorrect.

The author says:

"*Man* is used for those that possess *'aql* (intellect), just as *maa* is used for those that do not possess *'aql* (intellect)."

Meaning, the default rule with regards to "*man*" is that it is for those that have *'aql*, like in the Hadeeth:

"Whosoever kills (a Kaafir fighter on the battlefield) then (it is his right) to take his booty (i.e. the spoils of war derived from that Kaafir, like his sword, etc.)"

Sometimes, however, "*man*" is used for those that do not possess `*aql*, by way of metaphor or allusion, like in the Aayah:

{"So from them (i.e. animals) are those that walk upon their stomach..."}

The default rule with regards to "*maad*" is that it is for those that do not possess `*aql*. It is said: "What is in the house?" Then an appropriate response to that could be: "Dirhams," or, "Dinars." You cannot respond to it by saying: "Zaid." or "`Amr." Sometimes, however, it is used for other than that, as will be explained later on.

The author says:

"So if it is said: Whosoever desires to be free from among my slaves, then he is free."

This is a sub-branch with regards to the word "*man*" being `*aam*.

وذلك لأن معناه: كل من شاء العتق من بين عبادي فهو حر

وكلمة من في نفسها عامة ووصفت بصفة عامة وهي المشيئة

ومن يحتمل البيان فإن شاء الكل لابد أن يعتقوا جميعاً عملاً بعموم الكلمة من، بخلاف ما إذا  
قال: من شئت من عبادي عتقه، بإسناد المشيئة إلى المخاطب، فإن له حينئذ أن يعتقهم إلا  
واحداً عند أبي حنيفة رحمه الله، لأن الكلمة من للعموم ومن للتبعيض، فلا يستقيم العمل بهما إلا  
إذا بقي واحد منهم غير معتق وكذا المشيئة صفة خاصة للمخاطب

وقيل: الكلمة من للتبعيض في كل من المثالين، لكن في المثال الأول كل من العبد الشائي بعض  
مع قطع النظر عن غيره فيعتق الكل، وفي المثال الثاني الشائي واحد يتعلق مشيئته بالكل دفعة  
فلا يستقيم إلا بتخصيص البعض

ولكن يرد عليه: أنه إن شاء الكل على الترتيب، فحينئذ يصدق على كل واحد أنه شاء عتقه حال  
كونه بعضاً من العبيد فتأمل فيه

(فِإِنْ قَالَ لِأَمْتَهُ: إِنْ كَانَ مَا فِي بَطْنِكَ غَلَامًا فَأَنْتَ حَرَةٌ فَوْلَدْتِ غَلَامًا وَجَارِيَةٌ, لَمْ تَعْتَقْ)

تفريع لكون الكلمة ما عامة لأن المعنى حينئذ إن كان جميع ما في بطنه غلاماً فأنت حرة ولم يكن كذلك بل كان بعض ما في بطنه غلاماً وبعضه جارية، فلم يوجد الشرط

And that is because the meaning of it is: "Whosoever desires - from my slaves - freedom, then he is free."

The word "*man*" on its own is *`aam*, and it has been qualified with a qualifier that is *`aam* (in this scenario), and that qualifier is "*al-mashee'ah*" (the will).

The word "*min*" carries the possibility of *bayaan* (explanation; clarification); thus, if all of the slaves desire freedom, then he has to free all of them, acting in accordance with the generality of the word "*min*", and this is contrary to the case of saying: "Whosoever I desire freedom for from my slaves," wherein he is attributing the *mashee'ah* (will) to himself as the speaker, because in such a case, he can free all of them except for one, according to Imaam Abu Haneefah رحمة الله عليه, because the word "*man*" is for *‘umoom* and the word "*min*" is for *tab`eedh* (partitioning, or to denote just a part of something). Thus, in this scenario, acting on both of them will only be possible if one slave remains unfreed, and similarly, the quality of *mashee'ah* (will) is *khaas* for the speaker.

It has been said: "The word "*min*" is for *tab`eedh* (partitioning) in both of the examples; however, in the first example, every single one of the slaves that desire to be freed is "*ba`dh*" (part), without having to look at other than himself (i.e. each slave fulfills this condition of being "part" of the whole), and thus, all of them will be freed. In the second example, however, the one who desires (has *mashee'ah*) is only one person, and his *mashee'ah* is connected to all of them at one, so it is not valid unless there is the exclusion of some of them (even if it be just one). [The reason for this is because of him using the word "*min*" (from).]

However, a reply to that has been given that, if he intends all of them by way of succession or consecutively, then in this case, it is valid for each and every one of the slaves that he intended to free them, because each one of them is "*ba`dh*" (part, or just one) from the slave, so ponder over this.

The author says:

"So if he says to his slave-girl: "If what is in your womb is a boy, then you are free." And thereafter she gives birth to a boy and a girl, she will not be freed."

This is a sub-branch with regards to the word "maa" being 'aam, because the meaning in this case is: "If "all" of what is in your womb is a boy, then you are free." But she gave birth to a boy and a girl, which means that not "all" of what was in her womb was a boy. Part was a boy and part was a girl, and thus the condition had not been met.

لا يقال: فحينئذ ينبغي أن يجب قراءة جميع ما تيسر من القرآن في الصلاة بقوله تعالى:

فَاقْرُأُوا مَا تَيَسَّرَ مِنَ الْقُرْآنِ

لأننا نقول بناء الأمر على التيسير ينافي ذلك

It is not to be said: "That would necessitate that the Aayah mentioning: "Recite what is easy for you from the Qur'aan," that you have to recite everything that is easy for you from the Qur'aan in that particular Salaah." The reason why it is not the case is because we (Ahnaaf) say that the amr (command) is based on *tayseer* (facilitation), thus, this precludes that from being the case.

(وما يجيء بمعنى من مجازاً)

كقوله تعالى:

وَالسَّمَاءُ وَمَا بَنَاهَا

The author says:

"Sometimes, "maa" is used to mean "man", by way of metaphor."

Like in the Aayah:

{"By the heavens and What (i.e. Who) built it..."}

ولم يتعرض لمثل ذلك في من على ما ذكرت لقلته

Only rarely does "man" get used to mean "maa", however.

(ويدخل في صفات من يعقل أيضاً)

تقول: ما زيد؟ فحوابه: الْكَرِيمُ

وقال الله تعالى:

فَإِنْكِحُوهُ مَا طَابَ لَكُمْ

أي: الطيّبات لكم

The author says: "Sometimes, "maa" is used for those that possess `aql as well."

You say: "What is Zaid?" A possible response is: "Noble."

Another example is the Aayah:

{"Marry what (maa) is pleasing to you..."}

Meaning, those women that are pleasing to you.

(وكل للإحاطة على سبيل الإفراد)

أي: جعل كل فرد كأن ليس معه غيره, فهذا يسمى عموم الإفراد

The author says:

"The word "kull" is for *ibaatah* (encompassing), by way of *infiraad* (isolating)."

Meaning: the word *kull* makes each and every *fard* (individual) as though it is alone and there is nothing else with it, thus, this is termed "*'umoom-ul-infiraad*" (the generality of isolating).

(وهي تصحب الأسماء فتعمها)

أي: تدخل على الأسماء فتعمهما دون الأفعال, لأنها لازمة الإضافة والمضاف إليه لا يكون إلا إسماً

The author says:

"It enters upon the nouns and makes them `aam."

Meaning: it makes nouns `aam but not verbs, because it always comes as *idhaafah*, and the *mudhaaf ilayhi* has to be an *ism* (noun).

فإن قال: كل امرأة أتزوجها فهي طلق يحيى كل امرأة ولا يقع الطلاق على امرأة واحدة

مرتين

[The author is explaining the meaning of "*`alaa sabeel-il-ifraad*" (by way of isolating). For example: A person has four wives, and he says: "Every wife of mine who enters the house is divorced." Then, one wife enters the house. Immediately she is divorced, and the *talaaq* is not hinged upon the other three wives entering. This is what is meant by "*ifraad*", as opposed to "*ijtimaa'*" (altogether). Even though the word *kull* is being used, because it is "*`alaa sabeel-il-ifraad*", it applies upon each individual that falls under "*kull*". If he had said "*`alaa sabeel-il-ijtimaa'*", then the *talaaq* would not fall unless all four of the wives enter the house. - *Qamar-ul-Aqmaar*.]

So if a person says: "Every woman I marry is divorced." Then, this applies for every woman that he marries, and *talaaq* does not fall on one wife twice (i.e. if he marries that woman again, the *talaaq* will not fall a second time.)

ولما كانت كلمة كل لعموم مدخلوها

(فإن دخلت على المنكر أوجبت عموم أفراده)

لأنه مدلولها لغة

The word *kull* makes those under it general. The author says:

"Thus, if it is used for a word that is munkar (indefinite), it will be a case of *`umoom-ul-ifraad* (generality of each individual)."

Because that is what is pointed out to by it, linguistically.

(وإن دخلت على المعرف أوجبت عموم أجزائه)

لأنه مدلولها عرفاً

The author says:

"And if it is used for a word that is *mu`arrif* (definite), then it will make all of its *ajzad'* (parts) general."

Because that is what is pointed out to by it, customarily.

ولهذا لو قال: أنت طالق كل تطليقة يقع الثلاث، وإن قال: كل التطليقة يقع واحدة

(حتى فرقوا بين قولهم: كل رمان مأكول، وكل الرمان مأكول بالصدق والكذب)

أي: بصدق الأول وكذب الثاني، لأن معنى الأول: كل فرد من الرمان مما يصلح أن يؤكل، وهو صادق، ومعنى الثاني: كل أجزاء الرمان مما يؤكل، وهو كذب، لأن القشر لا يؤكل قط

(إذا وصلت بما أوجبت عموم الأفعال)

بأن يقول: كلما تزوجت امرأة فهي طالق، فمعناه: كل وقت أتزوج امرأة فهي طالق، فهو قصداً يقع على عموم التزويجات

(ويثبت عموم الأسماء فيه ضمناً)

لأن عموم التزوج لا يكون إلا بعموم النساء، فيحيث بكل تزوج سواء تزوج امرأة مراراً أو تزوج امرأة بعد امرأة

For this reason, if a person says to his wife: "You are divorced *kulla tatlīqah* (with every divorce)," then all three *talaqs* will fall (in this scenario, the person is using *tatlīqah* in the indefinite form). However, if he says: "You are divorced *kull at-tatlīqah* (with all of the divorce)," then one *talaq* will fall (because by making the *tatlīqah* definite by adding "*al*", the meaning now changes to: "all of this particular divorce", i.e. the entirety of this one divorce).

The author says:

"So much so that they differentiated between a person saying: "every pomegranate is eaten," and between a person saying: "All of the pomegranate is eaten." The first they judge as being truthful and the second as being a lie."

Meaning, they judge the first sentence to be true and the second sentence to be false, because the meaning of the first one is: "Every individual pomegranate is fit for consumption," and that is truthful. The meaning of the second is: "Every part (*juz'*) of the pomegranate is from what is eaten," which is false, because the skin of the pomegranate is never eaten.

The author says:

"And if he attaches it to that which makes actions general."

Such as by the person saying: "Every time I marry a woman, she is divorced." Then the meaning of this is: "Each time that I marry a woman, then she is divorced." This is intended (by him), and it applies to all (his) marriages in general.

The author says:

"It includes the generality of nouns as well."

Because generality of marrying cannot take place except by the generality of women; thus, this applies everytime that he marries, regardless of whether he marries the same woman over and over, or he marries one woman after another.

(كعوم الأفعال في كل)

أي: كما أن عموم الأفعال يثبت في لفظ كل ضمناً لعموم الأسماء بعكس كلمة كلما

(وكلمة الجميع توجب عموم الإجتماع دون الإنفراد)

كما كان في لفظ كل، فيعتبر جميع ما صدق عليه ما بعده مجتمعة معاً

حتى إذا قال: جميع من دخل هذا الحصن أولاً فله من النفل كذا، فدخل عشرة معاً أن لهم (نفلاً واحداً بينهم جميعاً)

والنفل: هو ما يعطيه الإمام زائداً على سهم الغنيمة

فإن دخل عشرة معاً في صورة الجميع يكون الكل مشتركاً بين ذلك النفل الموعود عملاً بحقيقة

وإن دخلوا فراداً يستحق النفل الأول خاصة عملاً بمجازه، وهو أن يجعل بمعنى كل

واعتراض عليه بأنه يلزم الجمع بين الحقيقة والمجاز حينئذ

The author says:

"Like the generality of the actions when using *kull*."

Meaning: Like how generality of actions is affirmed through usage of the word "*kull*", included under the generality of nouns, unlike the word "*kullamaa*".

The author says:

"Usage of the word "*jamee`*" necessitates `*umoom-ul-ijtimaa`*, not `*umoom-ul-infiraad*."

Like how it is when using the word *kull*; thus, "*jamee`*" (all) of what can truthfully fall under it is included, altogether, joined (not separate).

The author says:

"So much so that if a person says: "All (*jamee`*) of those who enter this fortress first, they will receive such-and-such a prize." Then, 10 people enter the fortress all at once. In this case, the prize is distributed amongst all of them together.

The word "*nafal*" (with a *fathah* on both the *noon* and the *faa*) used by the author refers to a gift given by the Khaleefah of the Muslims to a person in addition to what he receives from his portion of the spoils of war.

So, if ten people enter altogether, then this "*kull*" is shared between that promised *nafal* (prize or gift), acting according to the literal.

If, however, they enter it individually, then only the first person who enters will be entitled to the *nafal*, acting according to the *majaaz* (metaphorical), which is that he will be made the meaning of "*kull*" (i.e. *kull* will refer to him alone).

An objection is raised by some that, in this scenario, *jam`* (joining) should be done between the literal and the metaphorical.

والجواب: أنه لا يستعار بمعنى كل بعينه لأنه لو كان كذلك لكان للكل نفل تام في صورة ما دخلوا معاً، بل هو مجاز عن السابق في الدخول واحداً كان أو جماعة، فيكون للجماعة نفل واحد كما هو للأول الواحد عملاً بعموم المجاز، والأولى أن يقال: إن الغرض من هذا الكلام هو إظهار الشجاعة والجلادة، فإذا استحقه جماعة باعتبار ظاهر معناه الحقيقي فاستحقاق الواحد له بالطريق الأولى بدلالة النص لأنه فيه إظهار كمال الشجاعة

The answer to this is that: the actual meaning of *kull* is now used, because had it been so, then the "*kull*" would have gotten the complete prize in the scenario wherein they all enter together. Rather, it is metaphorical, referring to the one who is first in entering, be it alone or in a group, and thus, a group will receive one prize, just as how in the case of one person entering, he receives one prize (*nafal*), acting thereby according to `*umoom-ul-majaaz*`.

It would have been better to say: the purpose behind this speech (i.e. behind the person promising the prize to whosoever enters the fortress first, his intention is to see who is brave). Thus, if a group of people become entitled to it due to taking into consideration the apparent of its literal meaning, then for one person to become entitled to it is even more rightful, due to *dalaalat-un-nass* (what is pointed out to by the explicit text), because in one person alone doing it, this demonstrates perfect bravery.

[`*Umoom-ul-majaaz*` refers to intending a comprehensive, inclusive meaning for the literal and metaphorical of speech. An example is a person saying: "I will not put my foot in the house of so-and-so." He says "I will not put my foot," but he is actually referring to entering, i.e. "I will not **enter** the house of so-and-so." Entering encompasses the placing of his foot in that house be it barefoot or wearing a sandal. More will be explained in the discussion on *majaaz*.]

(وفي كلمة كل يجب لكل منهم النفل)

يعني: إذا قال: كل من دخل هذا الحصن أولاً فله من النفل كذا فدخل عشرة معاً، يجب لكل واحد منهم نفل تام، لأن كلمة كل للإحاطة على سبيل الإفراد، فاعتبر كل واحد من الداخلين كان ليس معه غيره، وهو أول بالنسبة إلى من تخلف من الناس ولم يدخل. ولو دخل عشرة فرادى كان النفل للأول خاصة لأنه الأول من كل وجه

وكلمة كل يحتمل الخصوص

The author says:

"In (using) the word "*kull*", a *nafal* (prize) becomes binding for each one of them."

Meaning, if the person says: "Everyone [*kull*] who enters this fortress first [*awwalan*], then he will receive such-and-such a prize." Then, 10 people enter altogether. It becomes necessary for him to give each of them a complete *nafal* (prize), because the word *kull* is for *ihaatah* (encompassing) `alaa sabeeil-il-ifraad (by way of isolating), so it is as though each of the 10 people who entered had no one else with them, and he is the first relative to the people who had sat back and not entered. If the 10 people entered individually, then the *nafal* (prize) would be only for the first person, exclusively, because he is then the first in every aspect.

(وفي كلمة من يبطل النفل)

أي: إن قال: من دخل هذا الحصن أولاً فله من النفل كذا، فدخل عشرة معاً، لا يستحق أحد منهم، لأن الأول إسم لفرد سابق دخل أولاً ولم يوجد بل وجد الداخلون الأولون

وكلمة من ليست محكمة في العموم حتى تؤثر في تغيير لفظ أولاً بخلاف كلمة كل والجميع فإنه يتغير بهما قوله أولاً

The author says:

"Usage of the word "*man*" nullifies the prize."

Meaning, if the person says: "Whosoever [*man*] enters this fortress first, then he will receive such-and-such a prize." Then, 10 people enter altogether. Not a single one of them will be deserving of the prize, because "*awwal*" (first) refers to the first individual, the one who entered first. This condition was not met. Rather, they entered as "*daakhiloon*" (enterers), "*awwaloon*" (firsts).

The word "*man*" is not clear in `umoom so much so that it can affect change in the word "*awwalan*", unlike the words "*kull*" and "*jamee`*", because those two words are able to change the word "*awwalan*".

ولو دخل عشرة فرادى يستحق الأول النفل خاصة دون الباقي

If 10 people entered individually, then only the first one who entered would be entitled to the prize, not the rest of them.

ثم لما فرغ عن بيان العام الصيغي والمعنوي وضعاً، ذكر ما يكون عمومه عارضاً بدليل خارجي  
فقال:

(والنكرة في موضع النفي تعم)

Now that the author has completed his explanation on those that type of 'aam which is 'aam in both word-form and meaning, he now commences his explanation on those which which, their being 'aam becomes clear through some external factor which evidences their being 'aam, so he says:

"Nakirah (indefinite) used in the place of *nafi* (negation) becomes 'aam."

وذلك لأنها في أصل وضعها للماهية أو لفرد واحد غير معين على اختلاف القولين، فإذا دخل عليها النفي تعم إذ نفي الماهية أو الفرد الغير المعين لا يكون إلا كذلك

That is because it is originally used for *maahiyah* (the essence), or for one individual who is unspecified, according to the different viewpoints. So, when *nafi* (negation) enters it, it becomes 'aam, because the *nafi* (negation) of the *maahiyah* or the unspecified individual cannot be except like that.

فإن تضمن معنى مِن الإستغرافية كان نصاً فيه، كما في قوله: لا رجل في الدار. قوله: لا إله إلا الله. وإنما، لكان ظاهراً فيه ومحتملاً للخصوص

So if it includes the meaning of "min", then it is *nass* in it, like in the saying: "There is no man in the house." And the *Kalimah*: "Laa Ilaaha Illallaah." And if not, then it is clear in it, and carries the possibility of *khusoos*. [What this means is that, the negating *nakirah* which occurs after "laa allathee li-nafyil jins" is *nass* (clear, explicit) in 'umoom, due to it including the meaning of "min al-istighraaqiyah". As for the negating *nakirah* which is not like that, then it is apparent in its 'umoom whilst carrying the possibility of *khusoos* if evidence for *khusoos* is found. - *Qamar al-Aqmaar*.]

والدليل على عمومها الإجماع والإستعمال قوله تعالى:

إِذْ قَالُوا مَا أَنْزَلَ اللَّهُ عَلَىٰ بَشَرٍ مِّنْ شَيْءٍ فُلْ مَنْ أَنْزَلَ الْكِتَابَ الَّذِي جَاءَ بِهِ مُوسَىٰ

The evidence for its `umoom is *ijmaa'* (consensus), and usage (among the people of Arabic), and the Aayah:

{"When they said: Allaah did not reveal anything upon man.' Say: 'Who revealed the Kitaab which Moosaa brought..."}

فَلَوْ لَمْ يَكُنْ قَوْلُهُ: عَلَى بَشَرٍ، وَقَوْلُهُ: مِنْ شَيْءٍ، مُفَيْدًا لِلسلبِ الْكُلِّيِّ، لَمَا كَانَ قَوْلُهُ: قُلْ مَنْ أَنْزَلَ الْكِتَابَ، رَدًا لَهُ عَلَى سَبِيلِ الإِيْجَابِ الْجُزْئِيِّ لِأَنَّ السَّلْبَ الْجُزْئِيَّ لَا يَنْاقِضُ الإِيْجَابَ الْجُزْئِيَّ

So, if the Aayah: "Upon man," and the Aayah: "Anything," did not give the meaning of complete seizing (i.e. their saying implies that Allaah Ta`aalaa never revealed anything upon any person ever), then the Aayah: "Say: Who revealed the Kitaab (i.e. Towraah) which Moosaa brought..." would not have been a refutation of them by way of partial affirmation, because partial rejection (literally: snatching) does not negate partial affirmation.

(وفي الإثبات تخص لكنها مطلقة)

أي إذا لم تكن تحت النفي بل كانت في الإثبات فتكون خاصة لفرد واحد غير معين

The author says:

"(When Nakirah is used) in *ithbaat*, it becomes *khaas*, but it is *mutlaq* (unrestricted)."

Meaning, if it is not under *nafsi* (negation), but rather, under *ithbaat* (affirmation), then it becomes *khaas* for one unspecified individual.

لَكُنْهَا مَطْلَقَةٌ بِحَسْبِ الْأَوْصَافِ كَمَا إِذَا قَلْتَ: أَعْتَقْ رَقْبَةً يَدْلِلُ عَلَى عَبْرَةٍ رَقْبَةٍ وَاحِدَةٍ مَحْتَمَلَةٍ لِأَوْصَافٍ كَثِيرَةٍ بَأْنَ تَكُونُ سُودَاءً، أَوْ بِيَضَاءً، أَوْ غَيْرِ ذَلِكَ

وإذا قلت: جاءني رجل، يفهم منه مجيء واحد مبهم مجهول الوصف، وليس المراد بالمطلق هنا هو الدال على الماهية من غير دلالة على الوحدة، بل هي الدالة على الوحدة من غير دلالة على تعين الأوصاف

وهذا هو الذي غر الشافعي رحمه الله في ظنها عامة وهو معنى قوله:

(وعند الشافعي رحمه الله تعم، حتى قال بعموم الرقبة المذكورة في الظهور)

فإنه يقول: إن لفظ رقبة في قوله تعالى

فَتَحْرِيرُ رَقَبَةٍ

عامة، شاملة للمؤمنة والكافرة والسوداء والبيضاء والزمنة والمحنونة، والعمياء والمدبرة، وغيرها، وقد خصت منها الزمنة والمدبرة ونحوها بالإجماع، فأخص أنا منها الكافرة بالقياس عليها

ونحن نقول: إن تخصيص الزمنة ليس بتخصيص، بل هي غير داخلة تحت الرقبة المطلقة، إذ هي فائدة جنس المنفعة والرقبة المطلقة ما تكون سليمة عن العيب

والمدبرة غير مملوكة من وجه، فلا يتناولها اسم الرقبة ولا ينبغي أن يقاس عليها الكافرة في التخصيص

But it is *mutlaq* (unrestricted) from the aspect of qualities, like if you say: "Free a neck (i.e. slave)," it points out to freeing a single neck (slave), though it carries the possibility of many different qualities, such as (the slave) being black, or white, etc.

If you say: "A man came to me." What is understood from this is (simply) the coming of one man, ambiguous, his description unknown. The meaning of *mutlaq* here is not to point out to the *maahiyah* (essence) without pointing out to singularity; rather, it points out to singularity without pointing out to the specifying of qualities.

This is what deceived Imaam ash-Shaafī`ee رحمة الله عليه in his thinking it (i.e. *nakirah* in the place of *ithbaat*) to be *'aam*, which is the meaning behind the author saying:

"According to Imaam ash-Shaafī`ee رحمة الله عليه, it is *'aam*, so much so that he held the view of the generality (*'umoom*) of the mentioned slave when it comes to *zhibhaar* as well."

Because he says: "The word *raqabah* (neck, i.e. slave) in the Aayah:

{"*Then the freeing of a neck (i.e. slave)...*"}

It is *'aam*, encompassing the *Mu'min* and the *Kaafir*, the black and the white, the lame/disabled slave and the insane one, the blind and the

mudabbir (slave that becomes free after the death of the master, because the master has promised this), etc. What has been excluded - by *ijmaa'* - is the disabled/lame one, and the *mudabbir*, etc. I exclude the Kaafir slave, through *qiyaaas* (analogical reasoning) upon it."

We (the Ahnaaf) say: Excluding the lame/disabled slave is not exclusion because it (that kind of slave) does not fall under the meaning of "*raqabah*" when it is used unrestrictedly in the first place, because it lacks the capability of benefiting (the master), and when *raqabah* is used in an unrestricted sense, it refers to that which is free from flaws. As for the *mudabbir*, then from one angle it is not exactly owned, and thus the word *raqabah* does not include it, and also it is not appropriate to do *qiyaaas* upon it in the case of a Kaafir, when it comes to *takhsees*.

ولنا في هذا المقام ضابطتان: إحداهما: أن المطلق يجري على إطلاقه، والثانية: أن المطلق يصرف إلى الفرد الكامل

فالأول في حق الأوصاف كالإيمان والكفر، والثاني في حق الذات كالزمانة والمعنى

وقال صاحب التلويح: إن هذا النزاع لفظي إذ لا يقول الشافعي بتحرير رقبات في الظهار، وإنما يقول: بتحرير رقبة واحدة فقط

ونحن أيضاً ما قلنا إلا بعموم الأوصاف، فسواء إن سمي هذا إطلاقاً أو عموماً

(وإن وصفت بصفة عامة تعم)

هذا بمنزلة الإستثناء مما سبق، كأنه قال: وفي الإثبات تخص إلا إذا كانت موصوفة بصفة عامة فإنها تعم لكل ما وجدت فيه هذه الصفة وإن كانت خاصة في إخراج ما عدتها

وهذا بحسب العرف والإستعمال، وإن فمفهوم الصفة هو الخصوص والتقييد بحسب الظاهر ولهذا لم تكن عامة إذا كانت تلك الصفة في نفسها خاصة

كقولك: والله لا أضرب إلا رجلاً ولدني، فإن الوالد لا يكون إلا واحداً، ولكن هذا الأصل أكثري لا كلي، وإن فقد تعم بدون الصفة، كما في قوله:

(تمرة خير من جرادة)

وقوله:

(عَلِمَتْ نَفْسٌ مَا أَحْضَرْتْ)

و

(عَلِمَتْ نَفْسٌ مَا قَدَّمْتْ)

We (the Ahnaaf) have two principles with regards to this issue:

1. *Al-Mutlaq yajree `alaal itlaaqihee* (That which is *mutlaq* (unrestricted) remains upon its unrestrictedness.)
2. *Al-Mutlaq yansarifu ilal-fardil kaamil* (*Mutlaq* goes to the complete individual.)

The first is with regards to qualities, like Imaan and Kufr. The second is with regards to the being itself, such as disability, blindness, etc.

The author of *at-Talweeh* says: "This disagreement is semantical, because ash-Shaafi`ee did not say that in the case of *zhibhaar, raqabaat* (plural of *raqabah*, i.e. slave) must be freed. He said only one *raqabah* (slave) must be freed. We (the Ahnaaf) also hold the view of *`umoom* (generality) of qualities, so it is the same whether this is termed *`umoom* or *itlaaq*."

The author says:

"If it is qualified with a quality which is *`aam*, it becomes *`aam*."

This is on the category of *istithnaa* (exclusion) from what was previously mentioned. It is as though he said: "In the case of *ithbaat*, it (*nakirah*) becomes *khaas*, except if it is qualified with a quality which is *`aam*, because in that case it becomes *`aam* for everything in which this quality is found, even though it is *khaas* in excluding what is besides that."

This is according to *urf* (custom) and the usage of people; otherwise, what is understood from the quality is *khusoos* and *tagyeed* (restricting) according to the apparent. For this reason, it is not *`aam* if that quality in itself is *khaas*.

It is like your saying: "By Allaah, I will not hit except a man who begot me." Because, the father can only be one person; however, this principle is *akthari* (applicable in most cases) not *kulli* (applicable in all cases). Otherwise, it can become `aam without the quality, like in the saying: "A date is better than a locust."

And in the Aayah:

{"Every nafs (soul) knows (will know) what it has presented."}

And in the Aayah:

{"Every nafs will know what it has sent forward..."}

وقد تخص بالصفة كما إذا قال: والله لأنزوجن امرأة كوفية بتزوج امرأة واحدة، ومثل قوله:  
لقيت رجلاً عالماً

(ك قوله: والله لا أكلم أحداً إلا رجلاً كوفياً)

مثال لعموم النكرة الموصوفة فإن رجلاً كان نكرة في الإثبات خاصة برجل واحد لو لم يتكلم بقوله: كوفياً، فيحيث إن كلام رجلين، ولما قال: كوفياً، عم جميع رجال الكوفة، فلا يحيث بتتكلم كل من كان من رجال الكوفة

(وقوله: والله لا أقربكما إلا يوماً أقربكما فيه)

مثال ثان لعموم النكرة الموصوفة وهو خطاب لامرأته، فإن قوله: يوماً، نكرة ليوم واحد فلو لم يصفه بقوله: أقربكما فيه، لكان مولياً بعد قريان يوم واحد لأن هذا إيلاء مؤبد وليس مؤقتاً بأربعة أشهر، حتى تنقص الأشهر الأربعة ب يوم

ولما وصفه بقوله: أقربكما فيه، لم يكن مولياً أبداً لأن كل يوم يقربهما فيه يكون مستثنى من اليمين لهذه الصفة العامة فلا يحيث به

And it can become *khaas* with a quality, like in the saying: "By Allaah, I will marry a Koofi woman (woman from Kufa) by marrying one man." And it is like your saying: "I met a man who is an `Aaalin."

The author says:

"Like the saying: By Allaah, I will not speak to anyone except a Koofi man (man from Kufa)."

This is an example of what is known as `umoom-un-nakirah (generality of *nakirah*) which is *mawsoofah* (qualified with a quality), because "rajulan" (man) was *nakirah* in affirmation, *khaas* (specific) to one man, and that is how it would have been had he not added the adjective: "Koofiyyan" (from Kufa). Thus, he would be breaking his oath if he spoke to two men. But when he said: "Koofiyyan" (from Kufa), this is `aam for all of the men of Kufa; thus, his oath does not break even if he speaks to all of the men of Kufa.

The author says:

"And like the saying: By Allaah, I will not approach the two of you except a day in which I approach the two of you."

This is a second example of `umoom-un-nakirah *al-mawsoofah* (the qualified generality of the indefinite article). This is addressed by a man to his two wives. By him saying, "A day," this is *nakirah* (indefinite) referring to one day. Thus, had he not qualified it with the qualifying statement: "In which I approach the two of you," then *eelaa* would apply after approaching them just one day, because this statement of his (had it been devoid of the qualifying phrase) would have resulted in permanent *eelaa*, not *eelaa* that is restricted to four months and thus the four months become reduced by one day.

However, he qualified this statement by saying: "In which I approach the two of you." By saying this, *eelaa* does not apply, because every day in which he approaches them, this then becomes *mustathnaa minhu* (excluded from) the oath, because of this quality which is `aam, and thus he would not be breaking his oath.

(وكذا إذا قال: أي عبيدي ضربك فهو حر، فضربوه إنهم يعتقدون)

مثال ثالث لكون النكارة عامة بعموم الوصف على سبيل التشبيه للقاعدة، فإن قوله: أي عبيدي، ليس بنكارة نحوية لكونه مضافاً إلى المعرفة ولكن يشبه النكارة في الإبهام وصف بصفة عامة وهو قوله: ضربك، فيعم بعموم الصفة فيعتقد كل منهم إن ضربوا المخاطب جملة مجتمعين أو متفرقين، بخلاف ما إذا قال: أي عبيدي ضربته فهو حر، فإضافة الضرب إلى المخاطب وجعل العبيد

مضروبين، فإنهم لا يعتقون كلهم إذا ضرب المخاطب جميعهم، بل إن ضربهم بالترتيب عتق الأول لعدم المزاحم، وإن ضربهم دفعة يخير المولى في تعيين واحد منهم

ووجه الفرق على ما هو المشهور أن في الأول وصفه بالضاربية فيعم بعموم الصفة، وفي الثاني قطع عن الوصفية لكونه مسندًا إلى المخاطب دون أي فلا يعم، ويصار إلى أخص الخصوص

واعترض عليه بأنكم إن أردتم الوصف النحوي فليس شيء من المثالين من قبيل الوصف لأن أيًّا إما موصولة أو شرطية

وإن أردتم الوصف المعنوي ففي كل من المثالين حاصل لأنَّه في الأول وصفه بالضاربية وفي الثاني بالمضروبة

ألا ترى أن في قوله: إلا يوماً أقربكما فيه، وجد العموم مع أن يوماً وقع مفعولاً فيه لا فاعلاً فينبع أن يكون في المفعول به كذلك

وأجيب بأن الضرب يقوم بالضارب فلا يقوم بالمضروب، والمفعول به فضلة لا يتوقف الفعل عليه بخلاف يوماً وهو مفعول فيه فإنه جزء من الفعل لأنَّه عبارة عن الحدث مع الزمان فيتلازمان

The author says:

"Similar is the case if he says: Whichever one from my slaves hits you, then he is free. So, they all hit him. In this case, all of them will be freed."

This is a third example of *nakirah* being *'aam* with *'umoom-ul-wasf* (generality of description) by way of resembling it to the principle, because him saying: "Whichever one from my slaves," is not the grammatical *nakirah* (indefinite article) due to it being *mudhaaf* (attached) to something which is *ma'rifah* (definite). However, it resembles *nakirah* (indefinite) in ambiguity, and it is qualified with a quality which is *'aam*, and that is his statement: "Who hits you." Thus, it becomes *'aam* with *'umoom-us-sifah* (the generality of quality; description; adjective), and thus all of them (the slaves) will get freed if they all hit the person the speaker was speaking to, whether they do so altogether or individually, contrary to the case of him saying: "Whichever one from my slaves I hit, then he is free." In this scenario, he is making the hitting (*dharb*) *mudhaaf* (attached) to himself as the speaker, and is making the slaves the

ones that are hit (*madbroobeen*). Thus, they are not all freed if he as the speaker hits all of them. Rather, if he hits them consecutively, only the first slave will get freed due to the absence of crowding. If he hits all of them at once, then he has the choice of choosing which one to free.

The difference between them according to what is well-known is that in the first case, he qualified it with "*dhaaribiyah*" (the quality of hitting, i.e. them as the slaves doing the hitting), and thus it becomes *'aam* with the *'umoom-us-sifah* (generality of quality; adjective). In the second case, the *wasfiyyah* (descriptiveness) is cut off because of it being linked to the speaker, not to "any" (i.e. any of the slaves), so it does not become *'aam*, and it goes to the most *khaas* form of *khusoos*.

An objection was raised against this, that: If you intend the grammatical *wasf* (descriptoin), then nothing in either of the two examples are from the category of *al-wasf* (description), because "*ayy*" (any) is either *mawsoolah* or *shartiyyah*. And, if you intend the figurative *wasf* (description), then in both of the two examples it is found, because in the first example, he qualified it with *dhaaribiyah*, and in the second example, he qualified it (did *wasf*) with *madbroobiyyah* (the quality of being one who was hit.)

Do you not see that in his saying: "Except the day in which I approach the two of you," *'umoom* (generality) is found despite the fact that "*yowman*" (a day) occurs as a *maf'ool feehi* and not as a *faa'il* (active participle); thus, it should be the same in the case of *maf'ool bihee*.

An answer is given that, the *dharb* (hitting) takes place from the *dhaarib* (hitter), not from the *madbroob* (one who gets hit). A *maf'ool bihee* is extra and the verb or action is not suspended upon it, unlike "*yowman*" (a day) which is *maf'ool feehi* and is part of the *fi'l* (action) because it refers to the occurence of the action along with the tense, thus binding them together.

وَقِيلَ فِي الْفَرْقِ بَيْنَهُمَا: أَنْ فِي الصُّورَةِ الْأُولَى لِمَا عَلِقَ الْعَتْقُ بِضَرْبِ الْعَبْدِ يَسْأَعُ كُلَّ مِنْهُمْ إِلَى ضَرْبِهِ لِأَجْلِ عَتْقِهِ فَلَا يُمْكِنُ التَّخْيِيرُ فِيهِ لِلْمُولَى بِلَا مَرْجُحٍ فِيْعَمْ، بِخَلْفِ الصُّورَةِ الثَّانِيَةِ فَإِنَّهُ عَلِقَ فِيهَا عَلَى ضَرْبِ الْمُخَاطِبِ فَلَا يَنْبَغِي لَهُ أَنْ يَضْرِبَهُمْ جَمِيعًا لِيَعْتَقُوا فِيْخِيرُ فِيهِ الْمُولَى بَيْنَ وَاحِدٍ مِنْهُمْ

(وكذا إذا دخلت لام التعريف فيما لا يحتمل التعريف بمعنى العهد أوجبت العموم)

يعني كما أن النكارة إذا وصفت بصفة عامة تعم كذلك إذا دخلت لام المعرفة في صورة لا يستقيم التعريف العهدي أوجبت العموم، سواء كان العموم للجنس كما ذهب إليه فخر الإسلام وتابعوه، أو الإسغراق كما ذهب إليه أهل العربية وجمهور الأصوليين

It has been said that the difference between the two of them is that in the first scenario, *dharb* (hitting) is connected to the slaves; thus, all of them race to hitting him (the person who was addressed) for the purpose of being freed, so it is not possible for the master to choose between them without giving preference (to one over the others), so it becomes *`aam*, contrary to the second scenario wherein *dharb* (hitting) is connected to the speaker and it is not possible for him to hit all of them at the same time so that they can be freed, and thus he is given a choice regarding which one of them to free.

The author says:

"The same is the case when *laam-ut-ta`reef* (the defining *laam*) enters upon something which does not carry the possibility of *ta`reef* (being definite), in the meaning of *`abd* (i.e. *laam-ul-`abd*), then *umoom* (generality) is necessitated."

What he means is that, like how *nakirah* (indefinite), when it is qualified with a qualifier that is *`aam*, it becomes *`aam*, so too is it that when *laam-ul-ma`rifah* (or *laam-ut-ta`reef*, which is ال) enter upon a form (i.e. a word) which cannot validly give the meaning of *at-ta`reef al-`abdi*, then *umoom* becomes necessitated (i.e. it becomes as *laam-ul-jinsiyyah* rather than *laam-ul-`abdiyyah*). This is the case whether the *umoom* is for *jins*, as is the view of *Fakhr-ul-Islaam* and those who followed him, or *istighraaq*, as is the view of the experts of Arabic and the majority of the *Usooliyyeen*.

**[Translator's note:** Before proceeding further, we will present a brief explanation on the issue of ال.

### Types of ال:

1. The *Al Al-`Abdiyyah* (called *Laam-ul-`Ahd*)
2. The *Al Al-Jinsiyyah* (called *Laam-ul-Jins*)
3. The *Al Al-Istighraaqi* (called *Laam-ul-Istighraaq*)

As for *Laam-ul-'Ahd* (*al-'Ahdiiyah*), then, when it is attached to a *nakirah*, that *nakirah* becomes *ma'rifah* (definite) and points out to a particular individual. For example:

أَكْرَمَ الرَّجُلَ

"He honoured **the man**."

Compare this to the saying:

أَكْرَمَ رَجُلًا

"He honoured **a man**."

When you say, "He honoured a man," this is indefinite. You have not specified any individual. On the other hand, when you say, "He honoured the man," then this is definite (*ma'rifah*), and it is specific. You are referring to **a particular individual**.

The *laam-ul-'ahd*, then, functions as a specifier. It makes a previously indefinite word definite, and it denotes specification, i.e. that you are referring to a particular individual, or object.

*Laam-ul-'Ahd* is then further divided into two types:

1. *Dhikri*
2. *Dhihni*

If the thing, be it an object or a person, that are you referring to and specifying with the *laam-ul-'ahd* has been mentioned prior to that within the conversation, then this is known as "*Laam-ul-'Ahd Dhikriyyan*". An example of this is the Ayah:

إِنَّا أَرْسَلْنَا إِلَيْكُمْ رَسُولًا شَاهِدًا إِلَيْ فِرْعَوْنَ رَسُولًا، فَعَصَى فِرْعَوْنُ الرَّسُولَ

{"Indeed, We sent unto you a Rasool (Messenger) as a witness upon you, as We had sent unto Fir`own a Rasool, but Fir`own disobeyed the Rasool..."}

Here, the *laam-ul-'ahd* is on "*ar-Rasool*". "The Rasool (Messenger)". This is *ma'rifah* (definite). It is *dhikri* because the one being specified in the *laam-ul-'ahd* has been mentioned within the conversation previously: "As We had sent unto Fir`own **a Rasool**..." Here, Rasool is in the *nakirah* (indefinite) form. A

Rasool (Messenger). Then in the following Aayah, it is made *ma`rifah* (definite): "So Fir`own disobeyed **the Rasool**..." So the Rasool being specified, its *dhikr* (mention) has already come in the previous Aayah, as the Rasool who was sent to Fir`own. Therefore, it is *Laam-ul-`Ahd Dhikri*. It is also known as *Laam-ul-`Ahd Khaariji*.

The other type is *Laam-ul-`Ahd Dhihni*, and this is the opposite of *Laam-ul-`Ahd Khaariji/Dhikri*, because the thing being specified is one that was not mentioned previously in the conversation. An example of this is the Aayah:

إِذْ يُبَأِ يَعْوَنَكَ تَحْتَ الشَّجَرَةِ

{"When they gave bay`ah to you beneath the tree..."}

Here, "ash-Shajarah" is *ma`rifah* (definite). It is specified. "The tree," meaning a particular tree. However, there was no mention of this tree previously in the Soorah, hence it is *Laam-ul-`Ahd Dhihni*. It is called "*dhihni*" because it is in the *dhihb* (mind) of the listeners, i.e. the listeners know what is being referred to even without it having been mentioned.

To summarise: the difference between *laam-ul-`ahd dhikri/khaariji* and *laam-ul-`ahd dhihni* is that in the case of *dhikri*, the specific constituent is known, and in the case of *dhihni*, the specific constituent is unknown.

Then, the *Al Al-Jinsiyyah*. This is when *ا* is attached to a formerly *nakirah* word, making it *ma`rifah*. However, unlike with *ahdi*, a specific constituent is not intended, i.e. you are not specifying one particular individual or object. Rather, you are referring to all of the constituents from the constituents which fall under that *jins* (species). An example of this is the Aayah:

خُلِقَ الْإِنْسَانُ مِنْ عَجَلٍ

{"Man was created of haste..."}

Here, even though *al-Insaan* is *ma`rifah*, *ا* being attached to it, a specific constituent is not intended. Meaning, it is not referring to one particular individual. Rather, it is referring to every single individual that falls under the *jins* of "insaan", so the entire human race as a whole. This is *alif* and *laam jinsiyyah*.

*Al Al-Istighraaqiyah* is very similar to *Al Al-Jinsiyyah*. However, the difference between the two is that *laam-ul-jinsiyyah* specifies all of a concept whereas *istighraaqi* specifies all of the constituents. For example:

الرجل قوي من الصبيان

“Men are stronger than children.”

This is *laam-ul-jinsiyyah*. *Ar-Rajul* is *ma`rifah*, specified, but what is being specified here is “man” as a concept or as a species, rather than referring to all of the individual constituents of men.

On the other hand, an example of *laam-ul-istighraaq* is the Aayah:

وَالْعَصْرِ, إِنَّ الْإِنْسَانَ لَفِيْ خُسْرٍ

{“By time, verily man is in a state of loss...”}

Here, all of the individual constituents of “*insaan*” are being specified by the *ta`reef* done on “*insaan*”. “[*Al-Insaan*]. Thus, this includes every single person that falls under the meaning of “*insaan*”. - End of note.]

وفيه تنبية على أن العهد هو الأصل في اللام، فما دام يستقيم العهد لا يصار إلى معنى آخر سواء كان عهداً خارجياً أو ذهنياً كما ذهب إليه البعض

وقيل: عهداً خارجياً فقط فإنه الأصل في التعريف والمعهود الذهني في المعنى كالنكرة

فإن لم يستقم العهد بأن لم يكن ثمة أفراد معهودة أو لم يجر ذكره فيما سبق حمل على الجنس فيحتمل الأدنى والكل على حسب قابلية المقام، أو على الإستغراق، فيستوعب الكل يقيناً، كما في قوله تعالى:

إِنَّ الْإِنْسَانَ لَفِيْ خُسْرٍ إِلَّا الَّذِينَ آمَنُوا وَعَمِلُوا الصَّالِحَاتِ

This shows that by default, when ال is used, the type meant is *laam-ul-`ahd*. Therefore, as long as the meaning of `ahd is applicable, that will be the intended meaning and a different meaning of ال will not be assumed, and

this is the case whether the `abd be *dhibni* or *khaariji*, as some have mentioned.

It has also been said that this applies only to `abd *khaariji* and not `abd *dhibni*, and that `abd *khaariji* is the default when it comes to *ta`reef* (making definite), because the specified thing in *dhibni* in meaning is like *nakirah* (indefinite).

However, if the meaning of `abd is not applicable, such as by there not being individuals that are being specified or its *dhikr* (mention) has not come previously, then it will be carried upon the meaning of *laam-ul-jins*, thus carrying the possibility of both the lowest number as well as all (*kull*), according to capability of that place to accept it. Or, it is carried upon the meaning of *laam-ul-istighraaq*, thus covering all (*kull*), like in the Aayah:

{"Indeed, man is in a state of loss, except those who have Imaan and do good deeds..."}

وقوله:

السَّارِقُ وَالسَّارِقَةُ

و

الرَّازِيَةُ وَالرَّازِيُّ

وأمثاله

And like in the Aayah:

{"The male thief and the female thief..."}

And the Aayah:

{"The adulteress and the adulterer..."}

And other such examples.

(حتى يسقط اعتبار الجمعية إذا دخلت على الجمع عملاً بالدلائل)

تفريع على قوله: أوجبت العموم، أي هذا القدر إذا كان دخول اللام في المفرد. وأما إذا كان على الجمع فشمرة عمومه أنه يسقط معنى الجمع فلا يكون أقله الثالث، إذ لو بقي جمعاً لم يظهر للام فائدة، إذ لا عهد ولا استغراق ولا جنس، فيجب أن يحمل على الجنس ليكون ما دون الثلاثة معمولاً للجنس وما فوقه للجمع

The author says:

"The plurality is dropped when it enters upon that which is plural, acting according to the two evidences."

This is a branching off from his statement, "It necessitates `umoom (generality)." Meaning, this amount, if the *laam* enters upon a *mufrad* (singular). If it enters upon a plural, however, then the fruit of the `umoom is that it causes the meaning of plurality to fall away, so its least amount is no longer three, because, if the plural status remains there would be no purpose behind the *laam*, and it would not be *'abd*, or *jins*, or *istighraaq*. Thus, it is necessary that it be carried upon the meaning of *jins* (*laam-ul-jins*), so that what is less than three can fall under *jins* and what is over that for plural.

(فيحيث يتزوج امرأة واحدة إذا حلف لا يتزوج النساء)

ولو كان معنى الجمع باقياً لما حنث بما دون الثلاثة

The author says:

"Thus, his oath breaks if he marries even one woman, if he had taken an oath not to marry women."

If the meaning of plurality had remained, then his oath would not be broken by marrying less than three. (What he means by this is that, even though when making the oath the person used the plural form, which is "women," his oath breaks by marrying even one woman, though one woman is singular and not plural, because plural is three or more.)

ومثله قوله تعالى:

لَا يَحِلُّ لَكَ النِّسَاءُ مِنْ بَعْدِ

وقوله تعالى:

إِنَّمَا الصَّدَقَاتُ لِلْفُقَرَاءِ وَالْمَسَاكِينَ

الآية

Examples of this are the Aayats:

{"After this, (other) women are not permissible for you..."}

And the Aayah:

{"The sadaqaat (i.e. zakaat) is for the fuqaraa and the masakeen..."}

فتکفي الصدقة لجنس الفقير والمسكين

وعند الشافعي رحمه الله لابد أن يصرف إلى الفقراء الثلاثة والمساكين الثلاثة عملاً بالجمع

هذا غاية ما قيل في هذا المقام وفيه تأمل

Thus, according to us (Ahnaaf), Zakaat is valid even if given to just one person who falls under the *jins* of *faqeer* or *miskeen*. According to Imaam ash-Shaafi`ee رحمه الله عليه, on the other hand, it is not valid unless given to at least three *fuqaraa* or three *masaakeen*, thus acting according to the plural (because the Aayah uses the plural form for them and not the singular.)

This is the limit of what has been mentioned with regards to this issue, so ponder over it.

ثم إنه لما ذكر إفادة النكارة والمعرفة التعميم، أورد في تقريره بيان ما ورد النكارة والمعرفة في مقام واحد وإن لم يكن ذلك من مباحث العام فقال:

(والنكارة إذا أعيدت معرفة كانت الثانية عين الأولى)

وهذا لا يتصور إلا في التعريف باللام أو الإضافة دون الأعلام ونحوها. فإذا أعيدت باللام كان ذلك إشارة إلى ما سبق فيكون عينه كقوله تعالى:

إِنَّا أَرْسَلْنَا إِلَيْكُمْ رَسُولًا شَاهِدًا عَلَيْكُمْ كَمَا أَرْسَلْنَا إِلَى فِرْعَوْنَ رَسُولًا، فَعَصَى فِرْعَوْنُ الرَّسُولَ

(وإذا أعيدت نكارة كانت الثانية غير الأولى)

لأنها لو كانت عين الأولى لتعينت نوع تعين ولم تبق فيها نكارة والمقدار خالفة

(والمعروفة إذا أعيدت معرفة كانت الثانية عين الأولى)

لأن اللام يشير إلى معهود مذكور فيما سبق

ومثال هاتين القاعدتين قوله تعالى:

فِإِنَّ مَعَ الْعُسْرِ يُسْرًا، إِنَّ مَعَ الْعُسْرِ يُسْرًا

فإن العسر أعيد معرفاً فيكون عين الأول، واليسير أعيد منكراً فيكون غير الأول، فعلم أن مع كل عسر واحد يسرين

After mentioning that both *nakirah* and *ma`rifah* give the meaning of *ta`meem* (making `aam), he enters into a discussion regarding a case wherein there is both *nakirah* and *ma`rifah* in one place - even though this is not part of the discussions on `aam itself - but he says:

"When *nakirah* is repeated as *ma`rifah*, the second is the same as the first."

This does not occur except in *ta`reef* with *laam* or with *idhaafah*, not with proper nouns, etc. So when it is repeated with (*alif*) and *laam*, that is a sign pointing out to what had preceded, so it is the same thing, like in the Ayah:

{"Indeed, We sent unto you a Rasool (Messenger) as a witness upon you, as We had sent unto Fir`own a Rasool, but Fir`own disobeyed the Rasool..."}

The author says:

"When it is repeated as *nakirah*, then the second is other than the first."

Because had it been the same as the first, then the type of specification would have become specified and no indefiniteness would have remained, whereas the reality is opposite to this.

The author says:

"When *ma`rifah* is repeated as *ma`rifah*, the second is the same as the first."

Because the *laam* points out to the specified thing which was mentioned previously.

An example of these two principles is the Ayah:

>{"Verily, with hardship comes ease. Verily, with hardship comes ease."}

In this Ayah, `usr (hardship) was repeated as in the form of *ma`rifah* (*al-`usr*), and thus in both it is a reference to same `usr (hardship). With *yusr* (easiness), on the other hand, it was repeated in the form of *nakirah*, which shows that the second is different from the first (i.e. the second time easiness is mentioned, it refers to an easiness separate from the first easiness, because *nakirah* is being used). From this it becomes known that with every hardship, there are two (periods of) ease.

وهو معنى قول ابن عباس رضي الله عنهما مروياً عن النبي عليه السلام: لَنْ يَغْلِبَ عَسْرُ يُسْرِينْ

وقال الشاعر:

إذا اشتدت بك البلوى فكر في ألم نشرح  
فتعسر بين يسرین إذا فكرته فافرخ

وقال فخر الإسلام: عندي في هذا المقام نظر لأنّه يحتمل أن تكون الجملة الثانية تأكيداً للأولى، كما أنّ قولنا: إنّ مع زيد كتاباً إنّ مع زيد كتاباً، لا يدلّ على أنّ معه كتابين، فيكون العسر واحداً واليسير واحداً

(إذا أعيدت نكرة كانت الثانية غير الأولى)

لأنها لو كانت عين الأولى لتعينت بلا إشارة حرف يدل عليه وهو باطل، ولم يوجد لهذا مثال في النص، وقد جعلوا في مثاله ما إذا أقر بألف مقيد بـك بـحضور شاهدين في مجلس ثم بألف غير مقيد بـك بـحضور شاهدين آخرين في مجلس آخر، يكون الثاني غير الأول ويلزمه ألفان

ويتبين أن يعلم أن هذا كله عند الإطلاق وخلوا المقام عن القرائن وإن فقد تعاد النكرة معرفة مع المغایرة، كقوله تعالى:

وَهَذَا كِتَابٌ أَنْزَلْنَاهُ مُبَارَكٌ فَاتَّبِعُوهُ وَاتَّقُوا لَعْلَكُمْ تُرْحَمُونَ، أَنْ تَقُولُوا إِنَّمَا أَنْزَلَ الْكِتَابَ عَلَيَّ  
طَائِفَتِينِ مِنْ قَبْلِنَا

فالكتاب الأول: القرآن، والكتاب الثاني: التوراة والإنجيل

وقد تعاد النكارة مع عدم المغایرة كقوله تعالى:

وَهُوَ الَّذِي فِي السَّمَاءِ إِلَهٌ وَفِي الْأَرْضِ إِلَهٌ

This is the meaning of what Hadhrat `Abdullaah ibn `Abbaas رضي الله عنهم narrated from Nabi صلى الله عليه وسلم, that he said: "One hardship will not overcome two (periods of) ease."

The poet says:

"*When the calamity becomes severe upon you, ponder over Alam Nashrah. For indeed, a difficulty situated between two periods of ease, when you ponder over this, rejoice.*"

Fakhr-ul-Islaam said: "I have a different view with regards to this issue, because it is possible that the second sentence can simply be a *ta'keed* (emphasis) for the first sentence, like when we say: "Indeed, with Zaid is a *kitaab*. Indeed, with Zaid is a *kitaab*." This does not mean that with Zaid are two *kitaabs*. Similarly, *'usr* can be one and *yusr* can be one."

The author says:

"When it is repeated as *nakirah*, the second is different to the first."

Because had it been the same as the first, then it would have become specified despite not having any sign - even a letter - that points out to it, which is false. No example such as this was found in the *nass*. They have made as an example that, if a person admits to owing 1,000 (*dinars* or *dirhams*) attached to a document, in the presence of two witnesses in one sitting, and thereafter at a later stage he admits to owing 1,000 (*dinars* or *dirhams*) unattached to any document, in the presence of two other witnesses in a different sitting, then the second debt of 1,000 will be different to the first and he will be liable to repay both.

It must be known that all of this applies in the case of *itlaaq* and when there are no external factors that point out to the case being different from that;

otherwise, sometimes *nakirah* is repeated as *ma`rifah* with a change (in the two), such as in the Aayah:

{ "And this is a Mubaarak Kitaab which We have revealed; therefore follow it and have Taqwaa so that you may receive (the) Mercy (of Allaah). (Lest) you say: The Kitaab was only revealed on two groups before us..." }

The first mention of Kitaab is a reference to the Qur'aan, and the second reference to Kitaab is a reference to the Towraah and the Injeel.

And sometimes even *nakirah* is repeated without there being a change in the two, like in the Aayah:

{ "And He it is Who is the Ilaah in the heavens and the Ilaah on earth..." }

وقد تعاد المعرفة معرفة مع المغایرة كقوله تعالى :

وَهُوَ الَّذِي أَنْزَلَ عَلَيْكَ الْكِتَابَ بِالْحَقِّ مُصَدِّقًا لِّمَا بَيْنَ يَدَيْهِ مِنَ الْكِتَابِ

وقد تعاد المعرفة نكرة مع عدم المغایرة كقوله تعالى :

إِنَّمَا إِلَهُكُمْ إِلَهٌ وَّاحِدٌ

وأمثال ذلك

And sometimes *ma`rifah* is repeated as *ma`rifah* with a change (between the two), like in the Aayah:

{ "And He it is Who sent down the Kitaab with Truth, confirming that which came before it from the Kitaab (i.e. the Towraah and the Injeel)..." }

And sometimes *ma`rifah* is repeated as *nakirah* with no change between them, like in the Aayah:

{ "Indeed, your Ilaah is One Ilaah..." }

And other such examples.

ثم بعد ذلك ذكر المصنف رحمه الله أقصى ما ينتهي إليه التخصيص في العام، وكان ينبغي أن يذكره في مباحث التخصيص لكن لما كان موقوفاً على بيان الفاظه أخره عنها فقال:

(وما ينتهي إليه الخصوص نوعان)

أي المقدار الذي لا يتعذر إلى ما تحته نوعان:

(النوع الأول: الواحد فيما هو فرد)

The author رحمة الله عليه now mentions the furthest point *takhsees* reaches in 'aam. It was more appropriate for him to have mentioned it under the discussions on *takhsees*, but because it is suspended on the explanation of its words, he delayed it. He says:

"That which *khusoos* ends at is of two types."

Meaning, the amount which does not exceed to that below it is of two types:

"The first type: one, in that which is singular."

بصيغته: كمن وما والطائفة واسم الجنس المعرف باللام

(أو ملحق به)

With its word-form, like "man", and "maa", and *taa'ifah* (a group), and *ism-ul-jins* which has been made definite by *laam*.

The author says:

"Or connected to it."

كالجموع المعرفة بلام الجنس فإنهما لو خليا عن الواحد أيضاً لفاس اللفظ عن مدلوله

"Like the plurals which are made definite by *laam-ul-jins*, because had they been free of one as well, then the word would have lost what it refers to."

(كالمرأة والنساء)

"Like a woman, and women."

نشر على ترتيب اللف، فالمرأة فرد بصيغته معرفة باللام، والنساء جمع لا واحد له محلى بلام الجنس، وينتهي تخصيصهما إلى الواحد البتة

This is *nashr `alaa tarreeb-il-laff*. The woman is a singular, in the word-form of singular, made definite by *laam* (*al-mar'ah*). Women are plural, having no "one" (*waahid*), also made definite by *laam-ul-jins*. Their *takhsees* ends at one, absolutely.

(والنوع الثاني: الثلاثة فيما كان جمعاً صيغة ومعنى)

كرجال ونساء منكراً مما لم يدخله لام الجنس، ويلحق به ما كان معنىًّا فقط كقوم ورهط

The author says:

"The second type: three in that which is plural, with its word-form and meaning."

Like *rijaal* (men), *nisaa* (women), in the form of *nakirah*, *laam-ul-jins* not having entered upon them. What is connected to this type also is that which is plural in meaning only, like *qawm* (nation) and *raht* (a group).

وإنما ينتهي تخصيص هؤلاء كلها إلى الثلاثة

(الآن أدنى الجمع الثلاثة بإجماع أهل اللغة)

The *takhsees* of all of these ends at three.

The author says:

"Because the least amount of plural is three, according to the consensus of all the experts of the Arabic language."

فلو لم يبق تحته ثلاثة أفراد لفاظ عن مقصوده

وقال بعض أصحاب الشافعي ومالك رحمهما الله: إن أقل الجمع اثنان فينتهي التخصيص إليه  
تمسكاً بقوله عليه الصلاة والسلام: إثناان فَمَا فَوْقُهُمَا جَمَاعَةٌ

فأجاب عنه المصنف رحمه الله بقوله:

(وقوله عليه الصلاة والسلام: إثناان فَمَا فَوْقُهُمَا جَمَاعَةٌ، محمول على المواريث والوصايا)

فِإِنْ فِي بَابِ الْمِيرَاثِ لِلإِثْنَيْنِ حُكْمُ الْجَمَاعَةِ إِسْتَحْقَاقًاً وَحْجَاجًاً فِإِنْ لِلْبَنِتَيْنِ وَالْأَخْتَيْنِ الشَّيْنِ كَمَا لِلْبَنَاتِ وَالْأَخْوَاتِ وَيَحْجِبُ الْإِخْوَانَ لِلْأَمِّ مِنَ الْثَّلَاثَ إِلَى السَّدِسِ كَالْإِخْوَةِ الْثَّلَاثَةِ

So, if three individuals did not remain under it, then the word would have lost its purpose.

Some of the companions of Imaam ash-Shaafi`ee and Imaam Maalik رحمة الله عليهما said: "The least amount of plural is two, and thus *takhsees* ends at it." They based this on the Hadeeth:

"Two and what is above that (more than two) is a group (i.e. plural)."

The author رحمة الله عليه responds to this by saying:

"The Hadeeth: "Two and what is above that is a group (i.e. plural), is a reference to *meeraath* (inheritance) and *wasaayaa* (bequests)."

Because when it comes to *meeraath*, two people get the ruling of a group (plural), as a right and an evidence, because two daughters and two sisters get two-thirds, just as how three or more daughters and three or more sisters get, and the presence of even two brothers reduces the mother's share of one-third to one-sixth, just as three or more brothers do.

وَالْوَصِيَّةُ أُخْتُ الْمِيرَاثِ فِي كُوْنِهَا إِسْتَخْلَافًا بَعْدَ الْمَوْتِ وَتَتَبعُ الْمِيرَاثَ تَبَعِيَّةَ النَّفْلِ لِلْفَرَضِ، فِإِنْ أُوصَى لِمَوْلَانِي فَلَانَ وَلَهُ مَوْلَانٌ أَوْ لِأَخْوَةِ زَيْدٍ وَلَهُ أَخْوَانٌ يَسْتَحْقَنَ الْكُلَّ (أَوْ عَلَى سَنَةِ تَقْدِيمِ الْإِمَامِ)

أَيْ إِذَا كَانَ الْمُتَقْدِي أَثْنَيْنِ يَتَقْدِمُهُمَا الْإِمَامُ كَمَا يَتَقْدِمُ عَلَى الْثَّلَاثَةِ خَلَافًا لِأَبِي يُوسُفِ رَحْمَةِ اللَّهِ فَإِنَّهُ عِنْدَهُ يَتَوَسَّطُهُمَا، وَذَلِكَ لِأَنَّ الْإِمَامَ مُحْسُوبٌ فِي الْجَمَاعَةِ كُلَّهَا إِلَّا فِي الْجَمَعَةِ فَإِنْ فِيهَا تَشْرِطُ ثَلَاثَةُ رِجَالٍ سَوْيَ الْإِمَامِ خَلَافًا لِأَبِي يُوسُفِ إِذْ عِنْدَهُ يَكْفِي اثْنَانِ سَوْيَ الْإِمَامِ

وَلَمْ يَذْكُرْ الْمُصْنَفُ رَحْمَةَ اللَّهِ الْجَوَابَ الْثَالِثَ الَّذِي ذُكِرَهُ غَيْرُهُ، وَهُوَ أَنَّهُ مَحْمُولٌ عَلَى الْمَسَافَرَةِ بَعْدَ قُوَّةِ الْإِسْلَامِ، فَإِنَّهُ عَلَيْهِ الصَّلَاةُ وَالسَّلَامُ نَهْيٌ أَوْلَأً عَنِ مَسَافَرَةِ الْوَاحِدِ وَالْإِثْنَيْنِ لِضَعْفِ الْإِسْلَامِ وَغَلْبَةِ الْكُفَّارِ، فَقَالَ: الْوَاحِدُ شَيْطَانٌ وَالْإِثْنَانِ شَيْطَانَانِ وَالثَّلَاثَةُ رَكْبٌ

أي: جماعة كافية

ثُمَّ لِمَا قَوَى الْإِسْلَامِ رَخْصٌ لِلْإِثْنَيْنِ وَنَقْيٌ الْوَاحِدُ عَلَى حَالِهِ فَقَالَ عَلَيْهِ الصَّلَاةُ وَالسَّلَامُ: الْإِثْنَانِ  
فَمَا فَوْقُهُمَا جَمَاعَةٌ

وبافي تمسكات المخالف بأجوبتها مذكورة في المطولات

Wasiyyah is the sister of meeraath in its coming into effect after the death (of the one who makes the bequest), and it follows *meeraath* the way *nafl* follows *fardh*. So, if he makes a *wasiyyat* for the *mawaali* (slaves) of so-and-so - and that person has just two slaves - or he makes a bequest for the brothers (*ikhwah*) of Zaid - and Zaid only has two brothers - then in all such cases, despite them only being two, they will take all the bequest (i.e. even though the person had used the word plural, which is for three or more, and they are only two, but despite this it will go entirely to them.)

The author says:

"Or upon the Sunnah of the Imaam standing in front."

Meaning, if there are two *muqtadis*, the Imaam will stand a bit in front and lead the Salaah, just as how he would do in the case of there being three *muqtadis*, which is contrary to the view of Imaam Abu Yusuf رحمة الله عليه who said that in the case of two *muqtadis*, he will stand between them and lead the Salaah.

The reason behind this is that, the Imaam is counted as being part of the *jamaa`ah*, except in the case of *Jumu`ah*. In the case of *Jumu`ah*, it is stipulated that there be three *muqtadis* besides the Imaam. Imaam Abu Yusuf رحمة الله عليه, however, held the view that two *muqtadis* besides the Imaam is sufficient.

The author رحمة الله عليه did not mention the third answer which had been mentioned by other ('Ulamaa of the Ahnaaf), which is that the Hadeeth is interpreted to be a reference to travelling after the establishment and strengthening of Islaam. In the early days, Rasoolullaah ﷺ had prohibited travel in groups of one and two (i.e. one person travelling alone, or two people travelling alone.) He said, "One (traveller) is a Shaytaan. Two

(travellers) are two Shaytaans. Three is a group." Meaning, three are sufficient.

Later on, when Islaam became strong, Rasoolullaah ﷺ permitted travelling in groups of two, hence his saying, "Two, and what is above that is a *jamaa`ah* (group)." However, the ruling remained the same in the case of travelling alone (one person). [However, Mulla `Ali al-Qaari رحمه الله عليه mentioned that later on, when Islaam became established and the Muslims were powerful, Rasoolullaah ﷺ permitted men to travel alone as well. - *Qamar-ul-Aqmaar*.]

The remainder of the objections of the opposition (i.e. the Maalikis and the Shaafi`is) as well as the answers to those objection have been mentioned in the lengthier (books of *shurooh*, and have been omitted here for brevity.)

## القسم الثالث من التقسيم الأول

### Part Three, from Section One:

#### المشترك

#### ***Al-Mushtarak* (Shared Words)**

Now that the author has completed his explanation on `aam, he begins his explanation on mushtarak, so he says:

#### تعريفه

#### **1. Its Definition**

(وأما المشترك فما يتناول أفراداً مختلفة الحدود على سبيل البدل)

"As for *mushtarak*<sup>4</sup>, then it refers to that which includes individuals (or objects) having different borders; boundaries; limits, by way of substituting or replacing."

أراد بالأفراد ما فوق الواحد ليتناول المشترك بين المعنيين فقط، وهو يخرج الخاص

وقوله: مختلفة الحدود يخرج العام على ما مر

وقوله: على سبيل البدل لبيان الواقع، أو احتراز عن قول الشافعي رحمه الله أنه على سبيل الشمول كما سيأتي. وقيل: إنه إحتراز عن لفظ الشيء فإنه باعتبار كونه بمعنى الموجود مشترك معنوي خارج عن هذا المشترك، وباعتبار كون أفراده مختلفة الحقائق داخل في المشترك اللفظي

What the author means by saying "*afraad*" (constituents) is that they be more than one, so that *mushtarak* joins between two meanings only (i.e. not less than that), and so this excludes *khaas*.

His saying: "Having different borders; boundaries; limits", excludes `aam, as has preceded (i.e. that in `aam, the borders/boundaries/limits of the different constituents are the same.)

His saying: "By way of *badl* (replacing or substituting) is to explain the reality, or it is to avoid the statement of Imaam ash-Shaafi`ee رحمة الله عليه who said: "It is by way of *shumool* (encompassing)." This will be explained later on.

It has also been said that it is to avoid the word "ash-shay" (thing), because taking into consideration its meaning "that which exists" (i.e. anything which exists can fall under *shay*'), it is figuratively *mushtarak*, though outside of this (actual) *mushtarak*, and by taking into consideration its constituents that are different in terms of their realities, it enters into literal *mushtarak*.

(القراء للحیض والطهر)

<sup>4</sup> *Mushtarak* refers to words that have two or more meanings, and these meanings can be vastly different, referring to completely different things entirely. For example, the word "jaariyah" is *mushtarak*, because one meaning is a ship, another meaning is a female slave, and another meaning is a young girl. The word مشترى is *mushtarak* because it can refer to a buyer or it can refer to a star in the sky. When it comes to *mushtarak*, then, if evidence is found that shows that just one meaning from the meanings of that *mushtarak* word is meant, then the other meanings will fall away and only that one meaning will be kept.

فإنه مشترك بين هذين المعنين لا يجتمعان، وقد أوله الشافعي رحمه الله بالطهر، وأبو حنيفة رحمه الله بالحيض كما عرفت

The author says:

"Like *al-qur'*, having both the meaning of *haidh* and also of *tuhr* (purity)."

Because the word *al-qur'* is *mushtarak*, i.e. shared between these two meanings which cannot join up (because a woman is either in *tuhr* or in *haidh*. She cannot be in both states at the same time. Similarly, both meanings cannot be applicable at one and the same time.)

Imaam ash-Shaafî`ee رحمة الله عليه has interpreted *al-qur'* to be a reference to *tuhr* (purity), whereas Imaam Abu Haneefah رحمة الله عليه interpreted it to be a reference to *haidh*, as you know.

## حکمه

### 2. Its Ruling

(وحكمة التوقف فيه بشرط التأمل ليترجح بعض وجوهه للعمل به)

يعني التوقف عن اعتقاد معين من المعاني والتأمل لأجل ترجح بعض الوجوه لأجل العمل لا للعلم القطعي كما تأملنا في القراءة بعدة أوجه:

أحدها: بصيغة ثلاثة  
والثاني: بكون أقل الجمع ثلاثة على ما مر  
والثالث: أنه بمعنى الجمع والإنتقال

The author says:

"The ruling of *mushtarak* is that reservation is done, i.e. no judgement is passed initially, until it has been pondered over (looking into the evidences), so that one of the meanings can be given preference over the other meanings, and then this meaning can be acted upon."

Meaning, reservation is done regarding believing one particular meaning to be the intended meaning (until research has been done), and until it has been carefully considered and thought over to do *tarjeeh* to one meaning over the other meanings, and this is for the purpose of acting upon (this meaning); it is not to say that after this, one will know with certainty (*qat`an*) which meaning was the intended one. This is as we have thought over the issue or *al-qur'* (and we, that is, the Ahnaaf, arrived at the conclusion that it refers to *haidh* and not *tuhr*), and that is due to a number of reasons:

1. Due to the word-form of "three" (i.e. because *quroo'* is plural, and the minimum plural is three, and if the intended meaning of *qur'* is *tuhr* like Imaam ash-Shaafi`ee said, then it would go against the rule of plural, because there would not be three equal periods of *tuhr*. On the other hand, there are three full periods of *haidh*, so that conforms to the plural meaning conveyed by *quroo'*).
2. Due to the least amount of plural being three, as has been mentioned previously.
3. Because it (*qur'*) conveys the meaning of gathering and also of moving.

والمجتمع هو الدم في أيام الطهر وكذا المنتقل هو الدم في أيام الحيض. وتحقيقه أن الحيض إن كان هو الدم فهو المجتمع والمنتقل، وإن لم يكن جامعاً بخلاف الطهر فإنه ليس بجامع ولا مجتمع ولا منتقل. وإن كان أيام الدم فهي محل المجتمع والانتقال، بخلاف أيام الطهر فإنها ليست بمحل الانتقال وإن كانت محلاً للجتماع في بادئ الرأي، وقد أوضحت ذلك في التفسير الأحمدي ولهنا لا يسعه المقام

(ولا عموم له)

أي للمشتراك عندنا فلا يجوز إرادة معنييه معاً. وقال الشافعي رحمه الله: يجوز أن يراد به المعنيان معاً

The thing which gathers is the blood (*damm*) during the days of *haidh*, and also, the thing which moves (which does *intiqaal*) is the blood as well, during the days of *haidh*. Thus, if the *haidh* is the blood, then it is the thing which gathers and which moves even though it is not a gatherer, unlike *tuhr*, because *tuhr* is not a gatherer, not does it gather, nor does it move (i.e. it does neither *jam`* nor *intiqaal*, which are the meanings of *qur'*). If it is the days of bleeding, then that (i.e. those days) are the place (time) of gathering and moving, unlike the days of *tuhr* (purity), because no moving takes place,

even though it may be (considered) a place for gathering (i.e. the blood gathering) from what is apparent, and I have clarified that in *at-Tafseer al-Ahmadi*, (and I have omitted mentioning it here) because the place is not big enough for it (i.e. it would make the discussion at hand too lengthy, so it has been omitted for the sake of brevity).

The author says:

"There is no `umoom for it."

Meaning, there is no `umoom for *mushtarak*, according to us (Ahnaaf). Thus, it is invalid to intend both meanings of a *mushtarak* word at the same time. According to Imaam ash-Shaafi`ee رحمة الله عليه, however, it is valid to intend both meanings at the same time.

كما في قوله تعالى:

إِنَّ اللَّهَ وَمَلَائِكَتَهُ يُصَلُّونَ عَلَى النَّبِيِّ

فالصلاحة من الله رحمة ومن الملائكة إستغفار، وقد أريدا بلفظ واحد

ونحن نقول: سبقت الآية لايحاب اقتداء المؤمنين بالله والملائكة، ولا يصح ذلك إلا بأخذ معنى عام شامل للكل وهو الإعتناء بشأنه، فيكون المعنى: إن الله وملائكته يعتنون بشأنه يأيها الذين آمنوا اعتنوا أيضاً بشأنه، وذلك الإعتناء من الله تعالى رحمة ومن الملائكة إستغفار ومن المؤمنين دعاء

An example of this (where a *mushtarak* is used and both meanings are intended, according to Imaam ash-Shaafi`ee) is the Aayah:

{"Indeed, Allaah and His Malaa'ikah send Salaah upon the Nabi..."}

When the word Salaah is used with regards to Allaah Ta`aalaa, it means Rahmah. When it is used with regards to the Malaa'ikah, it means *istighfaar*. Thus, both meanings have been intended with the same word.

We (the Ahnaaf) say: The Aayah was brought to make binding upon the Mu'mineen that they follow Allaah Ta`aalaa and that they follow the Malaa'ikah, and that is not possible except by adopting a word that is `aam, encompassing of everything, and that word is "al-i-tinaa", i.e. paying

attention to the Sha'n (status) of Nabi, صلی اللہ علیہ وسلم, thus making the meaning of the Aayah: "Indeed, Allaah and His Malaa'ikah pay attention to his Sha'n. O you who have Imaan, you also pay attention to his Sha'n."

When that *i'tinaa* is used with regards to Allaah Ta'aalaa, it refers to Rahmah, and when it is used with regards to the Malaa'ikah, it refers to *istighfaar*, and when it is used with regards to the Mu'mineen, it refers to Du'aa.

وتحrir محل النزاع أنه هل يجوز أن يراد بلفظ واحد في زمان واحد كل من المعنيين على أن يكون مراداً ومناطاً للحكم أم لا؟ فعندنا لا يجوز ذلك لأن الواقع خصص اللفظ للمعنى بحيث لا يراد به غيره، فاعتبار وضعه لهذا المعنى يوجب إرادته خاصة، وباعتبار وضعه لذلك المعنى يوجب إرادته خاصة، فيلزم أن يكون كل منهما مراداً وغير مراد، فلا يكون ذلك إلا بأن يراد أحد المعنيين على أنه نفس الموضوع له والآخر على أنه يناسبه، فيكون جمعاً بين الحقيقة والمجاز وهو باطل

وعنده يجوز ذلك بشرط أن لا يكون بينهما مضادة، فإذا كان بينهما مضادة كالحيض والطهر لا يجوز بالإجماع، وكذا لا تجوز إرادة المجموع من حيث هو مجموع بالإتفاق، وتحقيق ذلك في

التلويح

Settling the difference can be done through finding out: is it valid to intend - with one word, in one time - both meanings, by way of it being the intended meaning and (at the same time being the) thing upon which the ruling is connected to, or not? According to us (Ahnaaf), it is not valid, because the one who placed that word, he had specified a particular meaning in such a way that no other meaning can be intended. Thus, taking into consideration the fact that it had been placed (i.e. used, be it in speech or writing) for this particular meaning, necessitates that only that meaning be intended, and taking into consideration that it was placed for that meaning necessitates that only that meaning be intended, and that would result in a condition wherein both meanings are both intended and not intended, and that cannot be except in the case of a person intending both meanings in a way that, one meaning is the main reason behind why the word was used (i.e. the primary meaning) and the other meaning simply conforms to it (i.e. a secondary meaning), so it would be a joining between *haqeeqat* (reality) and *majaaz* (metaphor), which is invalid.

According to Imaam ash-Shaafi`ee رحمة الله عليه, it is valid on condition that there be no conflict or contradiction between the two meanings. If there is a contradiction between the two meanings (like in the case of the word *quroo'*, which can refer either to *haidh* or to *tubr*, then according to *ijmaa`* it is invalid. Similarly, it is invalid to intend all of the meanings from the facet of being all (the meanings), according to consensus, and this is clarified in *at-Talweeh*.

## المؤول

### *Al-Mu'awwal* (The Interpreted Meaning)

ثم ذكر المصنف بعده المؤول، فقال:

Thereafter, the author mentions *mu'awwal*, so he says:

#### تعريفه

#### 1. Its Definition

(وأما المؤول فما ترجم من المشترك بعض وجوهه بغالب الرأي)

"As for *mu'awwal*, then it refers to the meaning of a *mushtarak* word that has been given *tarjeeh* according to the strongest opinion."

يعني أن المشترك ما دام يتراجع أحد معنييه على الآخر فهو مشترك، وإذا ترجم أحد معنييه بتأويل المجتهد صار ذلك المشترك بعينه مؤولاً

وإنما عد من أقسام النظم وإن حصل بفعل المجتهد لأن الحكم بعد التأويل يضاف إلى الصيغة فكان النص ورد بهذا

Meaning, *mushtarak*, as long as one of its meanings can be given *tarjeeh* to (but one specific meaning has not yet been given *tarjeeh* to) then it remains as *mushtarak*. However, once one of its meanings has been chosen and given *tarjeeh* to by a *Mujtahid*, then that *mushtarak* now becomes *mu'awwal*.

It has been counted as being from the types of *nażḥm*, even though it is arrived out through the action of a Mujtahid, because the ruling after *ta'weel* (i.e. after it has been made *mu'awwal*) is connected to the word-form, so it is as though it had appeared in the *nass*.

وإنما قيد بقوله: من المشترك لأن المراد هنا هو هذا المؤول الذي بعد المشترك، وإن فالخفي  
والمشكل والمجمل إذا زال خفاوها بدليل ظني صار مؤولاً أيضاً، ولكنه من أقسام البيان  
والمراد بغالب الرأي الظن الغالب سواء حصل بخبر الواحد أو القياس أو نحوه

He restricted (made *taqyeed* of it) by saying: "from *mushtarak*," because the intended meaning here is this *mu'awwal* which comes after (it had been) *mushtarak*. Otherwise, *khafi*, *mushkil* and *mujmal* all become *mu'awwal* if their ambiguity is removed through speculative evidence; however, they are from the categories of *bayaan*.

The meaning of "*ghaalib-ur-ra'i*" is the strongest thought (in the mind of the Mujtahid or the one doing *ta'weel* of the *mushtarak* word), regardless of whether it is attained through a *khabr-e-waahid*, or *qiyas*, etc.

فلا يقال: إنه لا يشمل ما إذا حصل التأويل بخبر الواحد بل بالقياس فقط  
ثم الترجح من المشترك قد يكون بالتأمل في الصيغة، وقد يكون بالتأمل في اليسياق كما قلنا في  
القرء بالنظر إلى نفسه وبالنظر إلى ثلاثة  
وقد يكون بالنظر إلى السياق كما قي قوله تعالى:

أَحِلَّ لَكُمْ لَيْلَةَ الصِّيَامِ الرَّفُثُ

عرف أنه من الحل، وفي قوله:

أَحَلَّنَا دَارَ الْمُقَامَةِ

عرف أنه من الحلول

Thus, it cannot be said: "It does not encompass the case of the *ta'weel* being obtained through a *khabr-e-waahid*. It must only be through *qiyas*."

Thereafter, doing *tarjeeh* to one meaning of a *mushtarak* can be through pondering over its word-form, and it can also be through contemplating its context, as we mentioned in the case of *al-qur'*, by looking at the word itself and by looking at the (mention of) three (i.e. *quroo'*, which is plural, and the minimum plural is three).

It can also be by looking at the context, like in the Aayah:

{"It has been made permissible for you, on the night of fasting (i.e. the nights of Ramadhaan, to) have relations (with your wives)..."}

It is known that the "*uhilla*" mentioned in this Aayah refers to *al-Hill* (permissibility). And in the Aayah:

{"(The One Who) out of His Fadhl has granted us (residence) in a land that will last forever...”}

It is known that the "*aballa*" mentioned in this Aayah refers to *al-Hulool* (to give residence to).

## حکمه

### 2. Its Ruling

(وحكمة العمل به على احتمال الغلط)

أي حكم المؤول وجوب العمل بما جاء في تأویل المجتهد مع احتمال أنه غلط ويكون الصواب في الجانب الآخر

والحاصل أنه ظني واجب العمل غير قطعي في العلم فلا يکفر جاحده

The author says:

"Its ruling is that it is acted upon while bearing in mind the possibility of error."

Meaning, the ruling of *mu'anwal* is that it is *waajib* to make *'amal* on what has come from the *ta'weel* of a *Mujtahid*, whilst bearing in mind the possibility that it can be an error and that the correct view is with the other side.

In summary, it is *z̄banni* (speculative), *waajib* to act upon, and it is not *qat̄`iyy* (absolute) in terms of `Ilm, and thus the one who rejects it does not become a Kaafir.

## التقسيم الثاني: من حيث ظهور المعنى

ثم شرع في التقسيم الثاني فقال

### Section Two: The Words Which Have Clear Meanings:

The author now begins the second section (of the Kitaab), so he says:

الظاهر

*Azh-Zhaahir* (The Apparent)

تعريفه

#### 1. Its Definition

(وأما الظاهر فاسم لكلام ظهر المراد به للسامع يصيغته)

أي لا يحتاج إلى الطلب والتأمل كما في مقابلاتها ولا يزيد على الصيغة شيء آخر من السوق  
ونحوه كما في النص

فخرج هذا كله من قوله: بصيغته

The author says:

"As for *z̄haahir*, then this is a noun (word) used to refer to such speech (*kalaam*), the meaning of it is apparent to the listener just by its word-form alone."

Meaning, it does not require the listener to search or ponder over it, unlike with the other types of words (like *khafī*, *mushtarak*, *mujmal*, *mushkil*, etc.). Also, nothing extra is added to its word-form, such as context, etc., unlike

with nass (with nass, context is added). All of this is derived from his statement: "By its word-form."

ولكن يشترط في هذا كون السامع من أهل اللسان

However, a condition has been stipulated that the listener be from the people of the language (i.e. someone who is fluent in the language).

وفي ازدياد لفظ الكلام إشارة إلى أن هذا التقسيم مما يتعلق بالكلام كالرابع، كما أن الأول والثالث يتعلق بالكلمة

By the (author) having added the word "speech" (*kalaam*), this shows that this category section is from that which is connected to speech (*kalaam*), like the fourth, just as the first and third (sections) were connected to (dealing with) the word (*kalimah*).

والمراد من الظهور في قوله: ما ظهر، الظهور اللغوي، فلا يرد أن هذا تعريف الشيء بنفسه

The meaning of *zhuhoor* (being apparent) in his statement: "It is apparent," is that it is apparent from a linguistic perspective, so it is not to be responded that: this is defining a thing by itself.

## حکمه

### 2. Its Ruling

(وحكمه وجوب العمل بالذى ظهر منه)

The author says:

"Its ruling is that it is *waajib* to make *'amal* on it according to what is apparent from it."

على سبيل القطع واليقين، حتى صح إثبات الحدود والكافرات بالظاهر لأن غايتها أنه يحتمل المجاز، وهو احتمال غير ناشئ من دليل فلا يعتبر

Meaning, by way of absoluteness and certitude, so much so that it is valid to establish *hudood* and *kaffaaraat* using the *zhaahir*, because its limit is that it

carries the possibility of *majaaz* (metaphor), and that is a possibility which has not risen from evidence and thus is not considered.

## القسم الثاني من التقسيم الثاني: النص

### Part Two, from Section Two: *An-Nass*

#### النص

##### *Nass* (Clear Text)

###### تعريفه

###### 1. Its Definition

(وأما النص فما ازداد وضوحاً على الظاهر لمعنى من المتكلم لا في نفس الصيغة)

يعني يفهم منه معنى لم يفهم من الظاهر بسبب أن المتكلم ساق ذلك النظم لذلك المعنى لا  
بمجرد فهمه من الصيغة

والمشهور فيما بين القوم أن في النص يشترط السوق وفي الظاهر عدم السوق فيكون بينهما  
مباينة

فإذا قيل: جاءني القوم، كان نصاً في مجيء القوم، وإذا قيل: رأيت فلاناً حين جاءني القوم، كان  
نصاً في الرؤية، ظاهراً في مجيء القوم

The author says:

"*Nass* is that which, its (meaning) becomes clearer than *z̄haahir* because of a meaning from the speaker, not due to the word-form itself."

Meaning, a meaning is understood from it which is not understood from *z̄haahir*, due to the fact that the speaker (*mutakallim*) brought that speech for that meaning, and this meaning is not simply understood from the word-form alone.

**[Translator's Note:** An example of the difference between *nass* and *zhaahir* is the Aayah:

{ "And Allaah made bay` permissible and prohibited ribaa..." }

*Nass* is the reason for which the speech is brought, i.e. the reason why the person says this, or his purpose behind saying it. The purpose for this Aayah being brought was to show the difference between *bay`* and *ribaa*, because the Mushrikeen had said that *bay`* and *ribaa* is the same thing. Thus, this Aayah had been brought to show that this is not the case, and therefore, the *nass* of this Aayah is *tafriqah* (to show the difference between the two). Then, just by reading the Aayah or hearing it, two rulings are known, which is: 1) *Bay`* is Halaal. 2) *Ribaa* is Haraam. This is known just by hearing the Aayah or reading it. This, then, is known as *zhaahir* (*zhaahir* in the permissibility of trade and the prohibition of *ribaa*.)

What is well-known among the people is that when it comes to *nass*, then there is a stipulation that the speech was brought for it (i.e. *nass* is that for which the speech was brought. In other words, it is the crux of the matter.) In *zhaahir*, it is stipulated that this is not so (that the speech was not brought for it), so there is a difference between them.

So if it is said: "The people came to me." This is *nass* regarding the coming of the people. If it is said: "I saw so-and-so when the people came to me." This is *nass* regarding seeing that individual, and *zhaahir* regarding the coming of the people.

ولكن ذكر في عامة الكتب أن الظاهر أعم من أن يشترط فيه السوق أو لا ، والنص يشترط فيه السوق البتة

However, it has been mentioned in most of the books that *zhaahir* is too `aam (encompassing) for there to be a stipulation or no stipulation of *sooq* (that the speech was brought for it, or that the speech was no brought for it). However, when it comes to *nass*, then *sooq* is a condition for it absolutely.

وهكذا حال كل قسم فوقه من المفسر والمحكم، فإن بعضه أولى من بعض بحيث يوجد الأدنى في الأعلى فيكون بينهما عموم وخصوص مطلقاً

Similar is the status of each one of the types above is, such as *mufassar* and *muhkam*, because some of them are more rightful than others, in terms of

what is less being found in that which is above it, so there is, between them, 'umoom and *khusoos*, unrestrictedly.

## حکمه

### 2. Its Ruling

(وحكمه: وجوب العمل بما وضح على احتمال تأويل هو في حيز المجاز)

The author says:

"Its ruling is that it is *waajib* to make `amal on what is clear, while bearing in mind the fact that there is a possibility for *ta'weel*, so it is in the category of *majaaz*."

أي حكم النص وجوب العمل بالمعنى الذي وضح منه مع احتمال تأويل كان في معنى المجاز

Meaning, the ruling of *nass* is that it is *waajib* to act on the meaning which is clear from it with the possibility of *ta'weel* which is in the meaning of *majaaz* (i.e. it is not based on evidence).

[Meaning, when *nass* is `aam, it carries the possibility of *takhsees*, and when *nass* is not `aam, but rather, it is *khaas*, for example, then it carries the possibility of *majaaz*. - *Qamar-ul-Aqmaar*.]

وهذا التأويل قد يكون في ضمن التخصيص بأن يكون عاماً يحتمل التخصيص، وقد يكون في ضمن غيره بأن يكون حقيقة تحتمل المجاز، فلا حاجة إلى أن يقال على احتمال تأويل أو تخصيص كما ذكره غيره

And this *ta'weel* can either be through *takhsees*, such as (*nass*) being `aam and carrying the possibility of *takhsees*, or it can be through other than it, such as (the *nass*) being *haqeeqat* while carrying the possibility of *majaaz*, and thus it is not necessary for it to be said, "and carrying the possibility of *ta'weel* or *takhsees*," as others have mentioned.

[*Ta'weel* is to change the word from its *zhaahir* (apparent; literal) meaning to the opposite, whether it is with *takhsees* or with *majaaz*. - *Qamar-ul-Aqmaar*.]

ولما احتمل هذا الإحتمال النص كان الظاهر الذي هو دونه أولى بأن يحتمله ولكن مثل هذه الإحتمالات لا تضر بالقطعية

Because *nass* carries this possibility, *zhaahir*, which is less than it, is more right to carry the possibility (of *ta'weel*). However, the likes of these possibilities do not harm that which is *qat'iyy* (absolute. Meaning, because these possibilities are not founded upon solid evidence, they are not capable of harming that which is *qat'iyy*).

## المفسر

### *Mufassar* (Explained)

#### تعريفه

#### 1. Its Definition

(وأما المفسر فما ازداد وضوحاً على النص على وجه لا يبقى معه احتمال التأويل والتخصيص)

سواء انقطع ذلك الإحتمال ببيان النبي عليه الصلاة والسلام بأن كان مجملًا فلتحققه بيان قاطع بفعل النبي عليه الصلاة والسلام أو بقوله فصار مفسرًا، أو بإيراد الله تعالى كلمة زائدة ينسد بها باب التخصيص والتأويل كما سيأتي

The author says:

"*Mufassar* is that which, its clarity is even more than that of *nass*, in such a way that no possibility of *ta'weel* or *takhsees* remains."

This is the same whether that possibility has been cut off due to the explanation of Nabi ﷺ by, for example, it having been *mujmal* (ambiguous), and thereafter a clear explanation becomes attached to it through an action of Nabi ﷺ or a statement of his, and thereafter it becomes *mufassar* (explained clearly), or through Allaah Ta`aala adding an extra word by which the door of *takhsees* and *ta'weel* becomes closed, as will be explained later on.

## حکمه

### 2. Its Ruling

(وحكمه وجوب العمل به على احتمال النسخ)

أي حكم المفسر وجوب العمل به مع احتمال أن يصير منسوخاً، وهذا في زمن النبي عليه الصلاة والسلام، فاما فيما بعده فكل القرآن محكم لا يحتمل النسخ

The author says:

"Its ruling is that it is *waajib* to make `*amal* on it though it is possible to have been abrogated."

Meaning, the ruling of *mufassar* is that it is *waajib* to act on it while bearing in mind the possibility that it can become *mansookh* (abrogated), but that was in the era of Nabi ﷺ. As for the time after that, then all of the Qur'aan is *muhkam* and there is no possibility of anything becoming abrogated."

## المحكم

### *Muhkam* (Clear and Strong)

#### 1. Its Definition

(واما المحكم فما أحکم المراد به عن احتمال النسخ والتبديل)

تعديلاً "عن" ههنا يتضمن معنى الإمتنان، أي أحکم المراد به حال كونه ممتنعاً عن احتمال النسخ والتبديل، سواء كان انقطاع احتمال النسخ لمعنى في ذاته كآيات التوحيد والصفات ويسمى محكماً لعينه، أو بوفاة النبي ﷺ وسلام ويسمى محكماً لغيره

ولم يذكر في تعريفه لفظ ازداد كما ذكر فيما سبق تنبئهاً على أن المحكم ما ازداد وضوحاً على المفسر بشيء وإنما ازداد عليه بقوة فيه وهو عدم احتمال النسخ، فمراتب الظهور قد تمت على المفسر

The author says:

"As for *mubkam*, then it is that which, its meaning is clear and strong to such an extent that any possibility of abrogation or *ta'weel* falls away."

The addition of ``an'' here includes the meaning of abstaining, i.e. the intended meaning of it is clear and strong whilst it abstains from carrying the possibility of *naskh* (abrogation) or *tabdeel* (changing), regardless of whether that possibility is cut off through a meaning within itself, like the Aayaat of Tawheed and the Sifaat (Qualities of Allaah Ta`aala), and that is termed *muhkam li-`aynihi*, or with the passing away of Nabi ﷺ, and that is termed *muhkam li-ghayrihi*.

The word "increase" (*izdaada*) has not been mentioned in its definition unlike how it was mentioned previously, which shows that *muhkam* is that which, its clarity is stronger than that of *mufassar*, and it increased upon it because of a strength in it which is the absence of the possibility of *naskh*, so the categories of *zhuhoor* end with *mufassar*.

## حکمه

### 2. Its Ruling

(وحكمة وجوب العمل به من غير احتمال)

The author says:

"Its ruling is that it is *waajib* to make `amal on it and there is no possibility (of anything else, like *ta'weel*, or *takhsees*, etc)."

لا احتمال التأويل والتخصيص ولا احتمال النسخ فهو أتم القطعيات في إفادة اليقين

Not *ta'weel*, nor *takhsees*, nor *naskh*, etc. Thus, it is the most complete type of *qat`iyy* in conveying *yaqeen* (certitude).

ثم شرع في بيان أمثلة كل هؤلاء فقال:

Thereafter, the author begins explaining some examples of these, so he says:

(كقوله تعالى: وَأَخْلَقَ اللَّهُ الْبَيْعَ وَحَرَمَ الرِّبَا)

The Aayah:

{"And Allaah permitted bay` and prohibited ribaa..."}

هذا مثال الظاهر والنص، فإنه ظاهر في حق حل البيع وحرمة الربا، نص في بيان التفرقة بينهما، لأن الكفار كانوا يعتقدون حل الربا حتى شبها البيع به فقال إنما البيع مثل الربا، فرد الله وقال: "كيف يكون ذلك "وَأَحَلَ اللَّهُ الْبَيْعَ وَحَرَمَ الْرِبَا"

This is the example of *zhaahir* and *nass*, because it is *zhaahir* with regards to the permissibility of *bay`* and the prohibition of *ribaa*, and it is *nass* regarding the difference between the two of them, because the *Kuffaar* used to believe that *ribaa* is permissible, so much so that they resembled *bay`* to it, saying: "Indeed, *bay`* is like *ribaa*." So Allaah Ta`aalaa responded that, how can that be when Allaah has permitted *bay`* and prohibited *ribaa*.

ومثاله المذكور في عامة الكتب قوله تعالى:

Its example which is mentioned in most of the books is the Aayah:

فَانْكِحُوهَا مَا طَابَ لَكُمْ مِنَ النِّسَاءِ مُثْنَى وَثُلَاثَ وَرُبَاعَ

فإنه ظاهر في إباحة النكاح، نص في العدد لأنه سبق الكلام له كما سيأتي

{"So marry those that are pleasing to you from the women, in twos, threes and fours..."}

This Aayah is *zhaahir* is permitting *nikaah*, *nass* in mentioning the number (of wives), because the Aayah was brought for that, as will be explained later on.

(وقوله تعالى: فَسَجَدَ الْمَلَائِكَةُ كُلُّهُمْ أَجْمَعُونَ إِلَّا إِنْجِيلُسَ)

مثال للمفسر، فإن قوله فسجد ظاهر في سجود الملائكة نص في تعظيم آدم، لكنه يحتمل التخصيص، أي سجود بعض الملائكة بأن يكون الملائكة عاماً مخصوص البعض، ويحتمل التأويل بأن سجدوا متفرقين أو مدرجتين

فانقطع إحتمال التخصيص بقوله كلهم، واحتمال التأويل بقوله أجمعون، فصار مفسراً

ولا يقال إنه يبقى إحتمال كونهم متخلقين أو متصفين لأنه لا يضر في بيان العظيم، على أنا لا ندعني أنه مفسر من جميع الوجوه بل من بعضها. وكذا لا يقال إنه استثنى فيه إبليس فكيف يصير مفسراً لأن الإستثناء ليس من قبيل التخصيص، ولا يضر لكون الكلام مفسراً على أنه استثناء منقطع أو مبني على التغليب. وكذا لا يقال إنه خبر لا يحتمل النسخ فينبغي أن يكون مثلاً للمحکم لأن أصل هذا الكلام كان محتملاً للنسخ، وإنما ارتفع هذا الإحتمال بعارض كونه خبراً فلا ضير فيه

The author says:

"The Aayah: {"*So the Malaa'ikah made Sajdah, all of them, altogether, except Iblees...*"}"

This is an example of *mufassar*. The Aayah, {"*So the Malaa'ikah made sujood,*"} is *zhaahir* regarding the Malaa'ikah having made *sujood*, and it is *nass* regarding the honouring of Nabi Aadam عليه السلام. However, it carried the possibility of *takhsees*, i.e. some of the Malaa'ikah having made *sujood*, such as by al-Mala'a'ikah being `aam makhsoos-ul-ba`db. It also carried the possibility of *ta'weel*, i.e. that the Malaa'ikah could have made *sujood* altogether or individually.

The first possibility, i.e. that of *takhsees*, was removed by the Aayah saying: {"*All of them.*"}

The second possibility, i.e. that of *ta'weel*, was removed by the Aayah saying: {"*Altogether.*"}

Thus, it became *mufassar*.

It is not to be said that the possibility still remains of them having made the *sujood* either in a circle or in rows, because that causes no harm to the honouring of Nabi Aadam عليه السلام. However, we do not claim that it is *mufassar* from all angles, but rather, we say that it is *mufassar* from some angles.

Similarly, it is not to be said that Iblees has been excluded from it and so how can it be *mufassar*, because *istithnaa* (excluding) is not from the category of *takhsees* and does not harm (i.e. does not effect it) the speech being *mufassar*, because it is *istithnaa* that is *munqati`* or based on majority.

Similarly, it is not to be said that it is *khabr* having no possibility of *naskh* and so it should be an example of *muhkam*, because the *asl* of this speech carried the possibility of *naskh*, but this possibility was removed because of an extenuating factor, which is that of it being *khabr*, and so there is no harm in it.

ولهذا قال في التوضيح: إن الأولى في مثال المفسر هو قوله تعالى:

وَقَاتَلُوا الْمُشْرِكِينَ كَافَّةً

لأنه من أحكام الشرع، بخلاف قوله تعالى:

فَسَجَدَ الْمَلَائِكَةُ

فإنه من الأخبار والقصص

For this reason, the author of *at-Tawdheeh* writes: "The best example of *mufassar* is the Ayah: {"*And fight the Mushrikeen entirely (kaaffah, i.e. completely).*"} Because it is from the Ahkaam of the Sharee`ah, unlike the Ayah: {"*So the Malaa'ikah made sujood...*"} because that is from the narrations and stories.

(وقوله تعالى: إِنَّ اللَّهَ بِكُلِّ شَيْءٍ عَلِيمٌ)

مثال للمحكم لأنّه نص في مضمونه فلم يحتمل التأويل والنسخ إذ هو من باب العقائد في بيان التوحيد والصفات

The author says:

"The Ayah: {"*Indeed, Allaah is All-Knowing over everything.*"}

This is an example of *muhkam*, because it is *nass* in that which it incorporates, so it does not carry the possibility of *ta'weel*, or *naskh*, because it is related to `Aqaa'id (beliefs) and explaining Tawheed and the Sifaat (Qualities) of Allaah Ta`aalaa.

ولما لم يكن هذا من أحكام الشرع قال صاحب التوضيح ههنا أيضاً إن الأولى في مثال المحكم قوله عليه السلام:

الْجِهَادُ مَاضٍ إِلَى يَوْمِ الْقِيَامَةِ

لأنه من باب الأحكام ولم يحتمل النسخ لما فيه من توقيت أو تأييد ثبت نصاً

Because this was not from the Ahkaam of the Sharee`ah, the author of *at-Tawdheeh* said: "The best example of *muhkam* is the Hadeeth: "Jihad will continue until the Day of Qiyaamah."

Because it is relating to Ahkaam and carries no possibility of *naskh* (abrogation), because of it giving a time-frame (i.e. until the Day of Qiyaamah), so it is established as *nass*.

(ويظهر التفاوت عند التعارض ليصير الأدنى متروكاً بالأعلى)

يعني لا يظهر التفاوت بين هذه الأربعة في الظنية والقطعية لأنها كلها قطعية، إنما يظهر التفاوت عند التعارض فيعمل بالأعلى دون الأدنى

The author says:

"In the case of conflict, that which is lower is abandoned for that which is higher."

Meaning, the differences in level between these four (types) does not appear in *zhanriyyah* (speculative cases) and *qat'iyyah* (absolute cases) because all of them are *qat'iyy*. The difference only shows up in the case of conflict, and thus that which is higher will be acted upon rather than that which is lower (in level).

فإذا تعارض بين الظاهر والنص يعمل بالنص وإذا تعارض بين النص والمفسر يعمل بالمفسر وإذا تعارض بين المفسر والمحكم يعمل بالمحكم

ولكن هذا التعارض إنما هو التعارض الصوري لا الحقيقي لأن التعارض الحقيقي هو التضاد بين الحجتين على السواء لا مزيد لأحدهما، وه هنا ليس كذلك

So when there is a conflict between *zhaahir* and *nass*, *nass* will be acted upon. When there is a conflict between *nass* and *mufassar*, *mufassar* will be acted upon. When there is a conflict between *mufassar* and *muhkam*, *muhkam* will be acted upon.

However, this type of conflict is only a figurative conflict and not a literal one, because a literal conflict is a contradiction between two proofs that are on the same level, neither one being (stronger) than the other, and that is not the case here.

مثال تعارض الظاهر مع النص قوله تعالى:

An example of a conflict between *zhaahir* and *nass* is the Aayah:

وَأَحِلَّ لَكُمْ مَا وَرَاءَ ذَلِكُمْ أَنْ تَبْتَغُوا بِأَمْوَالِكُمْ

مع قوله تعالى:

فَانْكِحُوهُ مَا طَابَ لَكُمْ مِّنَ النِّسَاءِ مُثْنَى وَثُلَاثَ وَرُبَاعٍ

{"And permitted for you is what is beyond that, that you seek with your wealth..."}

With the Aayah:

{"So marry those that are pleasing to you from the women, in twos, threes and fours..."}

فإن الأول ظاهر في حل جميع المحللات من غير قصر على أربعة فينبغي أن تحل الزائدة عليها، والثاني نص في أنه لا يجوز التعدي عن الأربعة لأنه سيق لأجل العدد فتعارض بينهما، فترجم النص ويقتصر عليها

وقيل الأول نص في حق اشتراط المهر والثاني ظاهر في عدم اشتراطه لأنه ساكت عن ذكره ومطلق عنه فوق التعارض بينهما فيترجم النص ويجب المال

The first Ayaah is *zhaahir* in the permissibility of all those women that are permissible to marry, without any restriction, and thus it should be that it is permissible to marry extra. The second Aayah is *nass* regarding that it is not permissible to exceed upon four wives, because the Aayah was brought for the purpose of `adad (i.e. establishing a particular number, which is four wives), so there is a conflict between them. Thus, *tarjeeh* is given to *nass* and men are restricted to marrying four wives.

It has also been said that the first Aayah is *nass* regarding the stipulation of *mahr* and that the second Aayah is *zhaahir* in that there is no stipulation of *mahr*, because it (the second Aayah) does not mention it and it is

unrestricted from it, so a conflict arises between them and *tarjeeh* is given to *nass*, and thus the *mahr* is *waajib*.

ومثال التعارض النص مع المفسر قوله عليه الصلاة والسلام:

الْمُسْتَحْاضَةُ تَسْوَضًا لِكُلِّ صَلَوةٍ

مع قوله عليه الصلاة والسلام:

الْمُسْتَحْاضَةُ تَسْوَضًا لِوَقْتِ كُلِّ صَلَوةٍ

An example of a conflict between *nass* and *mufassar* is the Hadeeth:

"The *mustahaadhab* performs a fresh *wudhoo* for every Salaah."

And the Hadeeth:

"The *mustahaadhab* performs a fresh *wudhoo* at the time of every Salaah."

فِإِنَّ الْأَوَّلَ نَصٌّ يُقْتَضِيُ الْوَضُوءَ الْجَدِيدَ لِكُلِّ صَلَوةٍ أَدَاءً كَانَ أَوْ قَضَاءً فَرْضًا كَانَ أَوْ نَفَلًا

لَكِنَّهُ يَحْتَمِلُ التَّأْوِيلَ أَنْ يَكُونَ الْلَامُ بِمَعْنَى الْوَقْتِ فِي كُلِّ الْوَضُوءِ الْوَاحِدِ فِي كُلِّ وَقْتٍ فَتُؤْدِيُ بِهِ  
مَا تَشَاءُتُ مِنْ فِرْضٍ وَنَفْلٍ

The first Hadeeth is *nass* necessitating a fresh *wudhoo* for every Salaah regardless of whether it is *adaa* or *qadhaa*, and regardless of whether it is *fardh* or *nafl*. However, it carries the possibility of *ta'weel*, such as by the *laam* giving the meaning of time, so one *wudhoo* is then sufficient in each time, so she performs with that one *wudhoo* as many Salaats as she want, *fardh* or *nafl*.

وَالثَّانِي مُفَسَّرٌ لَا يَحْتَمِلُ التَّأْوِيلَ لِوَجْدَانِ لَفْظِ الْوَقْتِ فِيهِ صَرِيْحًا، فَإِذَا تَعَارَضَ بَيْنَهُمَا يُصَارُ إِلَى  
تَرجِيحِ الْمُفَسَّرِ فِي كُلِّ الْوَضُوءِ الْوَاحِدِ فِي كُلِّ وَقْتٍ صَلَوةً مَرَّةً وَاحِدَةً

وَالشَّافِعِيُّ رَحْمَهُ اللَّهُ لَمْ يَتَبَهَّ لِهَذَا فَعَمِلَ بِالْحَدِيثِ الْأَوَّلِ

The second Hadeeth is *mufassar*, not carrying the possibility of *ta'weel* due to the presence of the word "waqt" (time) in it clearly mentioned in it. Thus, when there is a conflict between them, *mufassar* is given *tarjeeh* and so one *wudhoo* is sufficient in each Salaah time, once.

Imaam ash-Shaafi`ee رحمة الله عليه had not realised this, so he acted according to the first Hadeeth.

ومثال تعارض المفسر مع المحكم قوله تعالى:

وأشهدُوا ذُوِنَ عَدْلٍ مِّنْكُمْ

مع قوله تعالى:

وَلَا تَقْبِلُوا لَهُمْ شَهَادَةً أَبَدًا

An example of a conflict between *mufassar* and *muhkam* is the Aayah:

{"And make as witnesses two people of `adl from among you..."}

And the Aayah:

{"And do not accept their shahaadah (testimony) ever..."}

فإن الأول مفسر يقتضي قبول شهادة محدودين في القذف بعد التوبة لأنهما صاراً عدلين حينئذ

والثاني محكم يقتضي عدم قبولها لوجود التأييد فيه صريحاً، فإذا تعارض بينهما يعمل على المحكم

هكذا في كتب الأصول

Because the first Aayah is *mufassar*, necessitating the acceptance of the *shahaadah* (testimony) of two appointed people in the case of *qadhf* (a woman being accused of *zinaa*) after *tawbah*, because both of them once again become `aadil after that (after repenting).

The second Aayah is *muhkam*, necessitating the absence of accepting their testimony due to the word "ever" being used clearly. So, when there is conflict between the two of them, *muhkam* is acted upon.

This is how it has been mentioned in the books of *Usool*.

وما قيل أنه لم يوجد مثال تعارض المفسر مع المحكم فمن قلة التبع

As for what has been said, that there exists no example of a conflict between *mufassar* and *muhkam*, then this (statement) is due to a lack of research.

ثم إن المصنف ذكر مثلاً لتعارض النص مع المفسر من المسائل الفقهية على سبيل التفريع  
فقال:

Thereafter, the author mentions an example of a conflict of *nass* with *mufassar* from some *Fiqhi masaa'il*, by way of branching off, so he says:

(حتى قلنا إنه إذا تزوج امرأة إلى شهر أنه متعة)

"So much so that we say: if a man marries a woman for a month, it is *mut`ah*."

يريد أنه قوله تزوج نص في النكاح لكنه يحتمل تأويل أن يكون نكاحاً إلى أجل فيكون متعة،  
وقوله إلى شهر مفسر في هذا المعنى لا يحتمل إلا كونه متعة فيحمل على المتعة

ولكن لا يحلو هذا من المسامحة لأن قوله: إلى شهر متعلق بقوله: تزوج، وليس كلاماً مستقلاً  
بنفسه حتى يكون مفسراً يصلح معارضاً له فكأنه أراد أن هذا الكلام دائراً بين كونه نكاحاً وبين  
كونه متعة فرجحت المتعة

Meaning, his statement "*tazawwaja*" (to marry) is *nass* regarding *nikaah*, but it carries the possibility of *ta'weel*, by it being a *nikaah* that lasts until an appointed time, and thus it is *mut`ah* (temporary marriage). His statement, "until a month," is *mufassar* regarding this meaning, carrying no possibility of it being except *mut`ah*, so it is carried upon *mut`ah*

However, this is not free of laxity, because him saying: "Until a month," is connected to his statement: "*Tazawwaja* (to marry)," and it is not independant speech by itself so much so that it can be *mufassar* that conflicts with it, so it is as though what he meant is that this speech moves between being *nikaah* and being *mut`ah*, so *tarjeeh* is given to (it being) *mut`ah*.

## ال التقسيم الثالث: من حيث خفاء المعنى

### Section Three: Hidden Meanings

#### القسم الأول من التقسيم الثالث

##### Part One, from Section Three:

###### الخفي

###### *Al-Khafi (Hidden)*

ثم بعد الفراف عن بيان الأقسام الأربع شرع في بيان مقابلاتها فقال:

After the author completed his explanation of the four categories, he now begins his explanation of their opposites, so he says:

###### تعريفه

##### 1. Its Definition

(وأما الخفي فما خفي مراده بعارض غير الصيغة لا ينال إلا بالطلب)

The author says:

"As for *khafi*, then it is such a word, the intended meaning of which is hidden due to an extenuating factor other than the word-form, and which cannot be acquired (i.e. the hidden meaning) except with searching."

يعني أن الخفي إسم لكلام خفي مراده بسبب عارض نشأ من غير الصيغة إذ لو كان منشئه الصيغة لكان فيه خفاء زائد، ويسمى بالمشكل والمجمل فلا يكون مقابلًا للظاهر الذي فيه أدنى ظهور

فإن كلاً من هؤلاء مترب في الخفاء ترب الأصل في الظهور، فإذا كان في الظاهر أدنى ظهور  
فلا بد أن يكون في الخفي أدنى خفاء وهكذا القياس، فلا ينال مراده إلا بالطلب فصار كمن  
اختفى في المدينة بنوع حيلة عارضة من غير تغيير لباس وهيئة

ثم في قوله: بعارض غير الصيغة مسامحة، والأظهر أن يقول: بعارض من غير الصيغة، كما في  
عبارة شمس الأئمة الحلواني

وقوله: لا ينال إلا بالطلب، ليس قيداً إحترازياً بل بيان للواقع وتأكيد للخفاء

Meaning, *khafi* is the name for such speech which, the intended meaning is hidden due to an extenuating factor which does not arise from the word-form, because had it arisen from the word form, then there would have been an addition aspect of *khafaa* in it, and it would have been called *mushkil* and *mujmal*, and thus would not have been the opposite of *zhaahir* in which there is the least amount of *zhuhoor* (being apparent), because all of these (i.e. categories of *khafi*) are of different ranks (i.e. in some, the quality of being hidden is greater than in others) like the different ranks of *zhuhoor*, because if there is in *zhaahir* the least amount of *zhuhoor*, then it is necessary that there be, in *khafi*, the lowest amount of *khafaa*, and so on. Thus, its intended meaning is not acquired except through searching, and it is like a person who hides away in a city through some trick, without changing his clothing or manner.

Therafter, regarding his statement: "Due to an extenuating factor not arising from the word-form," there is some laxity, and it is better to have said: "Due to an external factor from other than the word-form, like it appears in the text of Shams-ul-A'immaah, Imaam al-Hulwaani رحمة الله عليه.

His statement: "It is not acquired except with searching," is not restrictive, but rather, it is an explanation of the reality, and an emphasis for the *khafaa*.

## حكمة

### 2. Its Ruling

(وحكمة النظر فيه ليعلم أن اختفاءه لمزية أو نقصان فيظهر المراد به)

أي حكم الخفي النظر فيه وهو الطلب الأول ليعلم أن اختفاءه لأجل زيادة المعنى فيه على الظاهر، أو نقصانه فيه، فحينئذ يظهر المراد فيحكم في الزيادة على حسب ما يعلم من الظاهر،  
ولا يحكم في النقصان قط

The author says:

"Its ruling is that it is looked into to ascertain whether its *khafaa* is more or less, and through this the intended meaning becomes apparent."

Meaning, the ruling of *khafi* is that it is looked into, which is the first *talab* (searching), to ascertain if its *khafaa* is due to an increase in meaning inside of it above the *zhaahir* (apparent), or due to a decrease in it, and thereafter the intended meaning becomes apparent, and in the case of increase, it is judged according to what is known from the apparent, and no judgement is done in the case of decrease.

(كآية السرقة في حق الطرار والنباش)

The author says:

"Like the Ayah of stealing, in the case of the *tarraar* (one who steals from people while they are awake, due to his skill in theft), and the *nabbaash* (one who steals the *kafans* from dead people)."

فإن قوله تعالى:

السَّارِقُ وَالسَّارِقَةُ فَاقْطُعُوْا أَيْدِيهِمَا

ظاهر في حق وجوب قطع اليد لكل سارق، خفي في حق الطرار النباش لأنهما اختصا باسم آخر  
غير السارق في عرف أهل اللسان

Because the Ayah:

{"*The male thief and the female thief, cut of their hands...*"}

This Ayah is *zhaahir* regarding the *wiyoob* of cutting of the hand of every thief, but it is *khafi* with regards to the case of the *tarraar* and the *nabbaash*, because they have different names other than "*saariq*", according to the custom of the people of the language.

فتأملنا فوجدنا أن اختصاص الطرار باسم آخر لأجل زيادة معنى السرقة فيه، إذ السرقة هوأخذ مال محترم محرز خفية، وهو يسرق ممن هو يقطن قاصد لحفظ المال بضرب غفلة وفترة تعترف به

We pondered over this and we discovered that the *tarraar* has a different name to the *saariq* (regular thief) due to an increase in the meaning of theft in his case (the *tarraar*), because *saraqah* (stealing) is to take wealth which is sacred (i.e. not permissible to take), guarded, and hidden, whereas the *tarraar* steals from a person who is awake, guarding his money (due to the skill the *tarraar* has in stealing), during a time when the person is oblivious or weak.

واختصاص النباش به لأجل نقصان معنى السرقة فيه لأنه يسرق من الميت الذي هو غير قاصد للحفظ

The *nabbaash* has a different name (from *saariq*) due to a decrease in the meaning of stealing in his case, because he steals from the dead people who are not intending to protect (anything).

فعدينا حكم القطع إلى الطرار لأجل الزيادة فيه بدلالة النص، ولم نعد إلى النباش لأجل النقصان فيه، ولو كان القبر في بيت مغلق قيل: لا يقطع النباش لما ذكرنا، وقيل: يقطع لوجود الحرز بالمكان وإن لم يوجد بالحافظ، وهذا كله عندنا

Thus, we apply the ruling of cutting to the *tarraar* due to the increase in meaning in him through *dalaalat-un-nass*, and we do not apply it in the case of the *nabbaash* due to the decrease in meaning in him. If the grave is in a house that is locked, then it is said that still the *nabbaash*'s hand is not cut, due to what we have mentioned, whereas others say it is cut because of the presence of guarding (i.e. the wealth being guarded) in a place even if no one protecting it is there, and all of this is according to us (i.e. Ahnaaf).

وقال أبو يوسف والشافعي رحمهما الله: يقطع النباش على كل حال لقوله عليه الصلاة والسلام:

مَنْ نَبَشَ فَطَعَنَاهُ

Imaam Abu Yusuf and Imaam ash-Shaafi`ee رحمة الله عليهما said: "The hand of the *nabbaash* is cut in all cases, due to the Hadeeth:

"Whosoever does *nabash* (i.e. steals the *kafans* from the dead), we cut (his hand)."

قلنا: هو محمول على السياسة لما روي عنه عليه الصلاة والسلام:

لَا قَطْعَ عَلَى الْمُخْتَفِي

We say: "This is carried upon the meaning of *siyaasah* (politics, i.e. the discretion of the Khaleefah), because of the Hadeeth:

"There is no cutting upon the *mukhtaf*."

وهو النباش بلغة أهل المدينة

In the language of the people of Madeenah, it refers to the *nabbaash*.

## القسم الثاني من التقسيم الثالث

### Part Two, from Section Three:

#### المشكل

#### *Al-Mushkil* (The Ambiguous)

##### تعريفه

##### 1. Its Definition

(وأما المشكل فهو الداخل في أشكاله)

The author says:

"As for *mushkil*, then it refers to (the word which) enters into its likenesses (i.e. those words that it resembles)."

**[Translator's Note:** *Mushkil* refers to a word which is more ambiguous than *khafi* because, along with its *haqeqat* being hidden from the listener, it also resembles other words that are similar to it in such a way that its intended meaning cannot be ascertained except with searching and pondering, until it is distinguished from those words which it resembles.]

أي الكلام المشتبه في أمثاله فهو كرجل غريب اختلط بسائر الناس بتغيير لباسه وهيئة، ففيه زيادة خفاء على الخفي فيقابل النص الذي فيه زيادة ظهور على الظاهر، فلهذا يحتاج إلى النظر في الطلب ثم التأمل على ما قال

Meaning, that speech which resembles its likenesses, so it is like a strange man who blends in with other people by changing his clothes and his manner. Thus, in it is an increase of *khafaa* above that of *khafi*, so it is the equal of *nass*, because *nass* has an increase of *zhuboor* above that of *zhaahir*.

For this reason, it requires two glances: first searching, then pondering (over the meaning), as he had said.

## حکمه

### 2. Its Ruling

(وحكمه إعتقد الحقيقة فيما هو المراد ثم الإقبال على الطلب والتأمل فيه إلى أن يتبيّن المراد)

أي حكم المشكّل أولاً هو اعتقاد الحقيقة فيما كان مراد الله تعالى بمجرد سماع الكلام، ثم الإقبال على الطلب أي أنه لا يُؤتى معنى يستعمل هذا اللفظ، ثم التأمل فيه بأنه أي معنى يراد هنا من بين المعاني فيتبين المراد

The author says:

"Its ruling is that a person is to believe that whatever the intended meaning is, it is Haqq. Thereafter, one searches for the meaning, and ponders over it, until the intended meaning becomes clear."

Meaning, the ruling of *mushkil* is, first, to believe that it is Haqq regarding whatever the meaning intended by Allaah Ta`aala is, and this is just by hearing it. Thereafter, to search, i.e. find out for what meanings is this word used. Thereafter, to ponder over it, to ascertain which of those meanings are intended here from among all of those meanings, and thus the intended meaning becomes clear.

ومثاله قوله تعالى:

فَأُتُوا حَرْثُكُمْ أَنَّى شِئْتُمْ

An example of it is the Ayah:

{"Go unto your tilth however you will."}

فِإِنْ كَلْمَة أَنِي مَشْكُلَة تَجْيِيء تَارِة بِمَعْنَى مِنْ أَيْنَ كَمَا فِي قَوْلِهِ تَعَالَى:

أَنَّى لَكِ هَذَا

أَيْ مِنْ أَيْنَ لَكِ هَذَا الرِّزْقُ الَّتِي كُلُّ يَوْمٍ

Because the word "*annaa*" used in this Ayah is *mushkil*. Sometimes it is used in the meaning of "from where", like in the Ayah:

{"From where did you get this?"}

Meaning, from where do you get this *rizq* which comes every day.

وَتَارَة بِمَعْنَى كَيْفَ كَمَا فِي قَوْلِهِ تَعَالَى:

أَنَّى يَكُونُ لِي غُلَامٌ

أَيْ كَيْفَ يَكُونُ لِي غُلَامٌ فَاشْتَبَهَ هَاهُنَا أَنَّهُ بِأَيِّ مَعْنَى

Sometimes it is used in the meaning of "however," like in the Ayah:

{"How can there be for me a child...?"}

Meaning, "*kayfa*" (how) can I have a child. Thus, there is *ishtibaah* here regarding which meaning is intended.

فِإِنْ كَانَ بِمَعْنَى أَيْنَ يَكُونُ الْمَعْنَى: مِنْ أَيِّ مَكَانٍ شَئْتُمْ قَبْلًا أَوْ دِبْرًا فَتَحْلِي اللَّوَاطَةُ مِنْ امْرَأَتِهِ

If it is in the meaning of "from where," then the meaning would become: "Go to your wife in any place that you want, whether in the front private part or the back private part." And thus, for him to have sodomy with his wife would have been permissible.

وإن كان بمعنى كيف يكون المعنى بأية كيفية شتم قائماً أو قاعداً أو مضطجعاً فيدل على تعنيف  
الأحوال دون المحال

And if it is in the meaning of "however," then the meaning would be: in whichever manner you want, whether standing, or sitting, or lying down, and thus it would be pointing out to *ta`meem* (encompassing) all conditions rather than referring to place.

إِذَا تَأْمَلْنَا فِي لُفْظِ الْحَرْثِ عِلْمَنَا أَنَّهُ بِمَعْنَى كَيْفَ يَكُونُ الْمَعْنَى بِأَيَّةٍ كَيْفِيَّةٍ شَتَّمْ قَائِمًا أَوْ قَاعِدًا أَوْ مُضْطَجِعًا فَيَدْلِي عَلَى تَعْنِيفِ  
الْفَرْثِ فَتَكُونُ الْلَّوَاطَةُ مِنْ امْرَأَتِهِ حَرَامًا، لَكِنْ حَرَمَتْهَا ظُنْنَةٌ حَتَّى لَا يَكْفُرُ مُسْتَحْلِهَا

When we pondered over the word "*barth*" used in the Aayah, we found that the intended meaning of *annaa* in the Aayah has to be "*kayfa*", because the back private part is not a "*tilth*", but rather, it is a place of excrement, and thus for him to have sodomy with his wife is *haraam*. However, its *burmat* is *zhabani*, and so the one who regards it as permissible is not a Kaafir.

وَهَذِهِ الْلَّوَاطَةُ هِيَ الْمَقِيسَةُ عَلَى الْوَطَءِ فِي حَالَةِ الْحِيْضُورِ لِعَلَةِ الْأَذَى دُونَ الْتِي مِنَ الرِّجَالِ، لَأَنَّ  
حَرَمَتْهَا قَطْعِيَّةً ثَابِتَةً بِالْكِتَابِ وَالسُّنْنَةِ وَالْإِجْمَاعِ عَلَى مَا كَتَبْنَا كُلَّ ذَلِكَ فِي التَّفْسِيرِ الْأَحْمَدِيِّ

This sodomy with his wife is based on *qiyaaas* regarding having relations with his wife whilst she is in *haidh*, because doing so (whilst she is in *haidh*) causes harm (the *illat* for the prohibition is harm). With regards to men, however, its *burmat* is *qat`iyy*, established from Qur'aan, Sunnah and *ijmaa`*, as we have written in *at-Tafseer al-Ahmadi*.

فَمِثْلُ هَذَا الْمَشْكُلِ يُمْكِنُ أَنْ يَدْخُلَ فِي الْمُشْتَرِكِ الَّذِي رَجَحَ أَحَدُ مَعَانِيهِ بِالْتَّأْوِيلِ فَصَارَ مَؤْلُوًّا،  
وَقَدْ يَكُونُ الإِشْكَالُ لِأَجْلِ اسْتِعْرَاثِ بَدِيعَةٍ غَامِضَةٍ، كَقَوْلِهِ تَعَالَى

So this type of *mushkil* can enter into the kind of *mushtarak* which, one of its meanings has been given *tarjeeh* to with *ta'weel*, and so it becomes *mu'anwal*. The *ishkaal* can also be due to a cryptic, unique *isti`aarah*, like in the Aayah:

قَوَارِبٌ مِّنْ فِضَّةٍ

{"Glasses from silver..."}

في وصف أواني الجنة، فإن فيه إشكالاً من حيث أن القارورة لا تكون من الفضة بل من الزجاج، فإذا طلبنا وجدنا للقارورة صفتين: حميدة وهي الشفافية، وذميمة وهي السوداد، ووجدنا للفضة صفتين: حميدة وهي البياض، ومذميمة وهي عدم الصفاء، فلما تأملنا علمنا أن أواني الجنة في صفاء القارورة وبياض الفضة فتأمل

Regarding the vessels of Jannah. There is *ishkaal* in it from the angle that, a *qaaroorah* is not made from silver, but rather, from *glass* (*zujaj*). When we searched, we found that a *qaaroorah* has two descriptions: *hameedah* (praiseworthy, i.e. high-quality) and *dhameemah* (blameworthy, i.e. low-quality). The *hameedah* type is the one that is transparent, whereas the *dhameemah* (low-quality) is the one that is black. We also found that silver has two descriptions: *hameedah*, which is white, and *dhameemah*, which is the one that is not clear. When we pondered over it, we found that the vessels of Jannah possess the clarity of the *qaaroorah* and the whiteness of silver, so reflect (on this).

### القسم الثالث من التقسيم الثالث

#### Part Three, from Section Three:

##### المجمل

##### *Al-Mujmal* (Concise)

##### تعريفه

##### 1. Its Definition

وأما المجمل فما ازدحمت فيه المعاني واشتبه المراد به إشتباهاً لا يدرك بنفس العبارة بل ) بالرجوع إلى الإستفسار ثم الطلب ثم التأمل

The author says:

"As for *mujmal*, then it is that word in which there is a crowding of meanings and there is *ishtibaah* with regards to the intended meaning; such an *ishtibaah*

that, it cannot be comprehended from the text itself, but rather, there is a need to first do *istifsaar* (seeking explanation), then *talab* (searching), then *ta'ammul* (pondering)."

إِذْحَامُ الْمَعْنَى عِبَارَةٌ عَنِ إِجْتِمَاعِهَا عَلَى الْلُّفْظِ مِنْ غَيْرِ رِجْحَانٍ لِأَحَدِهَا كَمَا إِذَا انسَدَ بَابُ التَّرْجِيحِ فِي الْمُشْتَرِكِ، أَوْ يَكُونُ بِاعتِبَارِ غَرَبَةِ الْلُّفْظِ كَلْفُظُ الْهَلْوَعِ الْمُذَكُورُ فِي قَوْلِهِ تَعَالَى:

The meaning of "*iżdihaam-ul-ma'aam*" is that the meanings are crowded into this one word without there being *tarjeeh* for one of the meanings, like how when the door of *tarjeeh* is closed in the case of *mushtarak*. Or, the strangeness of the word is considered, like the word "*haloo'*" mentioned in the Aayah:

إِنَّ الْإِنْسَانَ خُلِقَ هَلْوُعًا، إِذَا مَسَّهُ الشَّرُّ جَزُوعًا، وَإِذَا مَسَّهُ الْخَيْرُ مَتُوعًا

{"Indeed, man was created impatient; irritable when touched by evil, and niggardly when touched by good."}

فَإِنَّهُ قَبْلَ بِيَانِهِ تَعَالَى كَانَ مَجْمَلًا لَمْ يَعْلَمْ مَرَادَهُ أَصْلًا، فِي بَيْنِهِ بِقَوْلِهِ تَعَالَى:

إِذَا مَسَّهُ الشَّرُّ

الآية

Because before Allaah Ta`aalaa explained it, it was *mujmal*, and its intended meaning was not known at all. Thereafter, Allaah Ta`aalaa explained it by saying: {"*W*hen evil touches him..."}

فَهُوَ جَنْسٌ شَامِلٌ لِلْمُشْتَرِكِ وَالْخَفِيِّ وَالْمُشْكُلِ، فَخَرَجَ بِقَوْلِهِ: وَاسْتَبَاهَا الْخُ، فَإِنَّ الْخَفِيِّ يَدْرِكُ بِمَجْرِدِ الْطَّلْبِ وَالْمُشْتَرِكِ وَالْمُشْكُلِ بِالتَّأْمُلِ بَعْدِ الْطَّلْبِ، بِخَلَافِ الْمَجْمَلِ، فَإِنَّهُ قَدْ يَحْتَاجُ إِلَى ثَلَاثَةِ طَلَبَاتٍ

الأول: الإستفسار عن المجمل، ثم الطلب للأوصاف بعده، ثم التأمل للتعين

So it is a *jins* that encompasses *mushtarak*, and *khafi*, and *mushkil*, so it comes out by his saying: "And there is *ishtibaah* with regards to its intended meaning..."

That is because *khafi* is comprehended through *talab* (searching) alone, and *mushtarak* and *mushkil* is comprehended with *ta'ammul* (pondering) after *talab* (searching), unlike *mujmal*, because *mujmal* requires three searches.

The first is *istifsaar* (seeking explanation) regarding the *mujmal*, then *talab* (searching) for the qualities after that, and then *ta'ammul* (pondering) to specify the intended meaning.

فهو كرجل غريب خرج عن وطنه ووقع في جملة من الناس لا يوقف عليه إلا بالإستفسار عن الأنام، ففيه زيادة خفاء على المشكل فيقابل المفسر الذي فيه زيادة ظهور على النص

So it is like a strange man who lives his homeland and lives among a group of people. He cannot be found except after *istifsaar* among the people. Thus, in it is an additional *khafaa* above that of *mushkil*, so it is equal to *mufassar* which has an increase of *zhuhoor* above that of *nass*.

ثم لما علم المجمل بعد ثلث طلبات خرج منه المتشابه لأنه لا يجوز طلبه ولا تعلم حقيقته بأي طلب كان

Thereafter, though *mujmal* is known after three searches, *mutashaabih* is still excluded, because it is not permissible to search (for its meaning), and its *haqeeqat* is not known regardless of what search it undertaken.

## حکمه

### 2. Its Ruling

(وحكمه إعتقد الحقيقة فيما هو المراد والتوقف فيه إلى أن يتبيّن بيان من المجمل)

The author says:

"Its ruling (i.e. that of *mushkil*) is to believe the intended meaning - whatever it may be - to be *Haqq*, and to reserve judgement regarding it until it becomes clear with a clarification from *mujmal*."

سواء كان بياناً شافياً، كالصلوة والزكاة في قوله تعالى:

Regardless of whether it is a complete clarification or explanation, like Salaah and Zakaah in the Aayah:

وَأَقِيمُوا الصَّلَاةَ وَآتُوا الزَّكَاةَ

{"Establish Salaah and give Zakaah..."}

فِي الْمُصَلَّةِ فِي الْلُّغَةِ: الْدُّعَاءُ، وَلَمْ يَعْلَمْ أَيْ دُعَاءً يَرَادُ فَاسْتَفْسِرُنَا فِيْبَيْنِهَا النَّبِيُّ عَلَيْهِ الصَّلَاةُ وَالسَّلَامُ بِأَفْعَالِهِ بِيَانًاً شَافِيًّاً مِّنْ أَوْلَاهَا إِلَى آخِرِهَا

Because Salaah, linguistically, refers to Du`aa, and it is not known what kind of Du`aa is intended, so we did *istifsaar*, and it had been clarified by Nabi ﷺ by his actions, with a complete clarification, from beginning to end.

ثُمَّ طَلَبَنَا أَنْ هَذِهِ الْمُصَلَّةُ عَلَى أَيِّ مَعْنَى تَشْمِلَ فَوْجَدْنَاهَا تَشْمِلُ، فَوْجَدْنَاهَا شَامِلَةً عَلَى الْقِيَامِ وَالْقَعْدَ وَالرُّكُوعَ وَالسُّجُودَ وَالسُّحْرِيمَةَ وَالْقَرَاءَةَ وَالْتَسْبِيحَاتَ وَالْأَذْكَارِ

Thereafter, we did *talab* (searched) and found that this Salaah, what meanings does it encompass? We found that it encompasses *qiyaam*, *qu`ood*, *rukoo`*, *sujood*, *tahreemah*, *qiraa'ah*, the *tasbeehaat* and the *adhkaar*.

فَلَمَّا تَأْمَلْنَا عِلْمَنَا أَنْ بَعْضَهَا فَرْضٌ وَبَعْضَهَا وَاجِبٌ وَبَعْضَهَا سَنَةٌ وَبَعْضَهَا مُسْتَحْبَةٌ، فَصَارَ مَفْسِرًا بَعْدَ أَنْ كَانَ مَجْمَلًا

When we pondered over it, we found that some parts are *fardh*, some are *waajib*, some are *sunnah*, and some are *mustahabb*. Thus, it becomes *mufassar* after having been *mujmal*.

وَهَكُذا الزَّكَاةُ مَعْنَاهَا فِي الْلُّغَةِ: النَّمَاءُ، وَذَلِكَ غَيْرُ مَرَادِ فِيْبَيْنِهَا النَّبِيُّ عَلَيْهِ الصَّلَاةُ وَالسَّلَامُ بِقَوْلِهِ: هَاتُوا رُبْعَ عَشْرَ أَمْوَالَكُمْ

Similar is Zakaah. Its linguistic meaning is "increase", but that is not the intended meaning, so Nabi ﷺ explained it by saying: "Give a quarter of a tenth (i.e. 2.5%) of your wealth."

وقوله عليه الصلاة والسلام: لَيْسَ عَلَيْكَ فِي الدَّهْبِ شَيْءٌ حَتَّى يَبْلُغَ عِشْرِينَ مِثْقَالًا، وَلَيْسَ عَلَيْكَ فِي الْفِضَّةِ شَيْءٌ حَتَّى يَبْلُغَ مِائَتَيْ دِرْهَمٍ

And the Hadeeth: "There is no (Zakaah) due upon you in gold until it reaches 20 *mithqaal*, and there is no (Zakaah) due upon you in silver until it reaches (the value of) 200 *dirhams*."

وهكذا قال في باب السوائم

Similar has been said regarding animals.

ثم طلبنا الأسباب والشروط والأوصاف والعلل فعلمنا أن ملك النصاب علة، وحولان الحول شرط، وهكذا القياس

Thereafter, we searched regarding the *asbaab* (causes), and the *shuroot* (conditions), and the *awsaaf* (qualities), and the *'ilal* (reasons), and we found that possession of the *nisaab* is the *'illat*, and the passing of one lunar year is the *shart*, and so on.

أو لم يكن البيان شافياً كالriba في قوله تعالى:

Or the explanation is not complete, like *ribaa* in the Ayah:

وحرّم الربا

{"And (Allaah) prohibited ribaa."}

فإنه مجمل بينه النبي عليه الصلاة والسلام بقوله:

Because it was mujmal until Nabi صلى الله عليه وسلم explained it by saying:

الْحِنْطَةُ بِالْحِنْطَةِ وَالشَّعِيرُ بِالشَّعِيرِ وَالتَّمْرُ بِالتَّمْرِ وَالْمِلْحُ بِالْمِلْحِ وَالْدَّهْبُ بِالْدَّهْبِ وَالْفِضَّةُ بِالْفِضَّةِ  
مِثْلًا بِمِثْلٍ يَدًا بِيَدٍ وَالْفَضْلُ رِبَا

"Wheat for wheat, barley for barley, dates for dates, salt for salt, gold for gold, silver for silver, equal for equal, hand to hand, and surplus is *ribaa*."

ثم طلبنا الأوصاف لأجل هذا التحرير حتى يعلم حال ما بقي سوى الأشياء الستة، فعلل بعضهم بالقدر والجنس، وبعضهم بالطعم والشمنية، وبعضهم بالإقتيات والإدخار، وفرع كل واحد منهم تفريعاً على حسب تعليله

Thereafter, we searched for the *awsaaf* (qualities) which resulted in this *tabreem* (prohibition), so that the state of those things other than the mentioned six can be known. So, some (of the *Fuqahaa*) mentioned that the 'illat (for *tabreem*) is *qadr* (quantity) and *jiins* (species), and others gave the 'illat as taste (in those things which can be consumed) and price (in those things that have a price). Some of them gave the 'illat as that which can be used for nourishment (food) and that which can be stored. Thus, each of them branched off according to the 'illat which they had arrived at.

وبالجملة لم يكن البيان شافياً وخرج من حيز الإجمال إلى حيز الإشكال

In summary, the explanation was not complete; hence, it went from being *mujmal* to being *mushkil*.

لهذا قال عمر رضي الله عنه: خرج النبي عليه الصلاة والسلام عنا ولم يبين لنا أبواب الربا  
وهكذا قالوا

For this reason, Hadhrat 'Umar رضي الله عنه said: "Nabi left us (i.e. passed away) and he had not explained to us the categories of *ribaa*."

This is as they have said.

## المتشابه

### *Al-Mutashaabih* (The Unclear)

#### تعريفه

#### 1. Its Definition

(وأما المتشابه فهو اسم لما انقطع رجاء معرفة المراد منه)

ولا يرجى بده أصلًا فهو في خاية الخفاء بمنزلة المحكم في خاية الظهور، فصار كرجل مفقود  
عن بلده وانقطع أثره وانقضى أقرانه وجيرانه

The author says:

"As for *mutashaabih*, then it refers to such a word which, there is no hope of understanding its intended meaning (in this Dunyaa)."

Not even its apparent meaning (is known), so it is in the highest level of *khafaa*, thus being on the same level as *mubkam*, which is in the highest level of *zhuhoor*. So it is like a man who is lost from his town, and there is no trace of him, and his friends and neighbours have died.

## حکمه

### 2. Its Ruling

(وحکمه: إعتقاد الحقيقة قبل الإصابة)

The author says:

"Its ruling is that you believe it to be Haqq even without knowing the meaning."

أي إعتقد أن المراد به حق وإن لم نعلمه قبل يوم القيمة، وأما بعد القيمة فيصير مكشوفاً لكل أحد إن شاء الله تعالى، وهذا في حق الأمة. وأما في حق النبي عليه الصلاة والسلام، فكان معلوماً وإلا تبطل فائدة التخاطب ويصير التخاطب بالمهمل كالتكلم بالزنجي مع العربي، وهذا عندنا

Meaning, you believe the intended meaning to be Haqq even though you do not know it and will not know it until the Day of Qiyaamah. As for after the Day of Qiyaamah, then it will be *makshoof* (revealed) to all those from the Ummah of Rasoolullaah (صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ) (i.e. the Muslims). As for Rasoolullaah (صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ) himself, then it is already known to him, because had it not been, then there would have been no *faa'idah* (benefit) in him having been addressed by it, and it would have been an addressing with that

which is meaningless, like the case of speaking in the language of the Zanj (African) people to an Arab, and this is according to us (Ahnaaf).

وقال الشافعي رحمه الله وعامة المعتزلة أن العلماء الراسخين أيضاً يعلمون تأويله

Imaam ash-Shaafî`ee, رحمة الله عليه, however, and the majority of the Mu`tazilah had said that the `Ulamaa who are *raasikheen* (firmly-grounded in `Ilm) also know the meaning (of the *mutashaabihaat*).

ومنشأ الخلاف قوله تعالى:

وَمَا يَعْلَمُ تَأْوِيلَهُ إِلَّا اللَّهُ وَالرَّاسِخُونَ فِي الْعِلْمِ يَقُولُونَ آمَّا بِهِ

The difference arises from the Aayah:

{"*And none knows its ta'weel but Allaah. And the raasikhoon fil-`Ilm (the `Ulamaa firmly-grounded in `Ilm) say: We believe in it...*"}

فعندهنا يجب الوقف على قوله: إِلَّا اللَّهُ، وقوله: وَالرَّاسِخُونَ فِي الْعِلْمِ جملة مبتدأة لأن الله تعالى جعل إتباع المتشابهات حظ الرائيين فيكون حظ الراسخين هو التسليم والإنقياد

ولقراءة البعض: الراسخون، بدون الواو، والبعض: وَيَقُولُ الرَّاسِخُونَ

According to us (Ahnaaf), it is *waajib* to stop at, "but Allaah," and thus, "*ar-Raasikhoona fil-`Ilm*" is a new sentence, because Allaah Ta`aalaa has declared the following of the *mutashaabihaat* to be the portion of those in whose hearts there is a disease. As for the portion of the *raasikheen fil-`Ilm*, then for them is simply to accept and submit.

Another reason for the difference is that there is a Qiraa'ah of some in which the Aayah is: "*Ar-Raasikhoon*," without the mention of "and", and in another Qiraa'ah: "*And the Raasikhoon say*."

وعند الشافعي رحمه الله لا يوقف على قوله: إِلَّا اللَّهُ، بل قوله: وَالرَّاسِخُونَ، معطوف على قوله الله، ويَقُولُونَ حال منه، فيكون المعنى: إِلَّا اللَّهُ وَالعلماء الراسخون في العلم

ولكن هذا نزاع لفظي لأن من قال يعلم الراسخون تأويله يريدون تأويله الظني

According to Imaam ash-Shaafi`ee رحمة الله عليه, there is no stopping on "but Allaah", and the Aayah, "war-Raasikhoon" is *ma`toof* upon "Allaah", and "Yaqooloon" is the *haal*, making the meaning: "None knows its meaning except Allaah and the 'Ulamaa who are firmly-grounded in 'Ilm."

However, this is a semantical argument, because those who say that the *Raasikheen* know the *ta'weel*, what they mean is that they know it in a speculative way (rather than definitively).

ومن قال: لا يعمل الراسخون تأويله, يريدون لا يعلمون التأويل الحق الذي يجب أن يعتقد عليه

And those who say that the *Raasikheen* do not know its *ta'weel*, they mean they do not know its true *ta'weel* which is *waajib* to believe in.

فإن قلت: فما فائدة إنزال المتشابهات على مذهبكم؟ قلت: الإبتلاء بالوقف والتسليم, لأن الناس على ضربين:

So if you say: "What then was the benefit of having revealed the *mutashaabihaat*, according to your point of view?" I say: "Testing them with reservation of judgement and submission." Because there are two types of people (regarding this):

ضرب يبتلون بالجهل فابتلاوهم أن يتعلموا العلم ويشتغلوا بالتحصيل

وضرب هم علماء فابتلاوهم أن لا يتفكروا في متشابهات ومستودعات أسراره, فإنها سر بين الله ورسوله لا يعلمها أحد غيره

The first type is those who are tested with *jahl*, and thus their test is to engross themselves with acquiring 'Ilm.

The second type are the 'Ulamaa, and their test is to restrain themselves from searching into the *mutashaabihaat* and the hidden secrets, because it is a secret between Allaah and His Rasool, صلى الله عليه وسلم, and no one else knows it.

لأن ابتلاء كل واحد إنما يكون على خلاف متمناه وعكس هواء, فهو الجاهل ترك التحصيل والخوض فيه فيبتلى به, وهو العالم إطلاع كل شيء فيبتلى بتركه

That is because each one is given a test which is opposite to that which he desires. The desire of the *jaahil* (ignoramus) is to abandon acquisition (of 'Ilm) and engrossing himself in it, so his test is to do so. The desire of the 'Aalim is to have knowledge of everything, so he is tested with abandoning searching into this issue.

ثُمَّ الْمُتَشَابِهُ عَلَى نَوْعَيْنِ :

Then, *mutashaabih* is of two types:

نَوْعٌ لَا يَعْلَمُ مَعْنَاهُ أَصْلًا، كَالْمَقْطَعَاتُ فِي أَوَّلِ السُّورٍ، مَثَلُهُمْ حَمٌّ، فَإِنَّهَا تَقْطَعُ كُلَّ كَلْمَةٍ مِّنْهَا عَنِ الْأُخْرَى فِي التَّكْلِمِ وَلَا يَعْلَمُ مَعْنَاهُ لَأَنَّهُ لَمْ يُوَضَّعْ فِي كَلَامِ الْعَرَبِ لِمَعْنَى مَا إِلَّا لِغَرَضِ التَّرْكِيبِ

The first type is that which, its meaning is not known whatsoever, like the *Huroof-e-Muqatta`aat* at the beginning of some of the Soorahs, like *Alif-Laa-Meem*, *Haa-Meem*, etc. Because each of those letters are cut off from the others in speech, and its meaning is not known because in Arabic, it is not used as a word but rather is used to form sentences.

وَنَوْعٌ يَعْلَمُ مَعْنَاهُ لِغَةً لَكِنْ لَا يَعْلَمُ مَرَادَ اللَّهِ تَعَالَى لِأَنَّ ظَاهِرَهُ يَخْالِفُ الْمُحْكَمَ، مَثَلُ قَوْلِهِ تَعَالَى :

The second type of *mutashaabih* is that which, the linguistic meaning is known, but the intended meaning of Allaah Ta`aalaa is not known, because the *zhaahir* (of this type of *mutashaabih*) is contrary to the *muhkam*, like the Ayah:

يَدُ اللَّهِ

{"The *Yad* of Allaah."}

وَجْهُ اللَّهِ

{"The *Wajh* of Allaah."}

و

And the Ayah:

الرَّحْمَانُ عَلَى الْعَرْشِ اسْتَوَى

{ "Ar-Rahmaan has istawaa upon the 'Arsh." }

و

And the Aayah:

وُجُوهٌ يَوْمَئِذٍ نَّاضِرَةٌ إِلَى رَبِّهَا نَاظِرَةٌ

{ "(Some) faces on that day will be radiant, looking at their Rabb." }

وأمثاله

Etc.

وتسمى هذه آيات الصفات، وقد طوّلنا الكلام في تحقيقها وتأویلاتها في التفسير الأحمدی  
فليطالع ثمة

These are called the "*Aayaat-us-Sifaat*". We have gone to great lengths regarding their interpretations in *at-Tafseer al-Ahmadi*, so those who wish to do so may research further there.

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**Translation completed on:** 9<sup>th</sup> of Jumaadal Oolaa, 1439 - 27<sup>th</sup> of January, 2018.

تَمَّتْ بِإِذْنِ اللَّهِ تَبَارَكَ وَتَعَالَى وَاللَّهُ وَلِيُ التَّوْفِيقِ

وَالْحَمْدُ لِلَّهِ رَبِّ الْعَالَمِينَ